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No. 45]

NEW DELHI, SATURDAY, NOVEMBER 7, 1992/KARTIKA 16, 1914

इस भाग में भिन्न गूळ संख्या दी जाती है जिससे कि वह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खंड 3—उप-खंड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किये गये सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

योजना मंत्रालय
(सांख्यिकी विभाग)

नई दिल्ली, 1 अक्टूबर, 1992

का.आ. 2775.—केन्द्रीय निव्विल सेवा (वर्गीकरण, नियंत्रण तथा अदील), नियमावली, 1965 के नियम 9 के उप-नियम (2), नियम 12 के उप-नियम (2) के खंड (ख) और नियम 24 के उप-नियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राष्ट्रपति एतद्वारा भारत सरकार की अधिसूचना की अनुसूची में मंत्रिमंडल सचिवालय के दिनांक 28 फरवरी, 1957 के का. नि. आ. 633 में आगे और निम्नलिखित संशोधन करते हैं, अर्थात्:

उक्त अधिसूचना की अनुसूची सामान्य केन्द्रीय सेवा खण्ड II, भाग I में शीर्षक 'राष्ट्रीय प्रतिदर्श सर्वेक्षण संगठन' के नीचे मौजूदा प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियाँ प्रतिस्थापित की जाएं, अर्थात्:—

1	2	3	4	5
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सभी समूह "ख"	निदेशक	निदेशक	सभी मुख्य कार्य- कारि	
राश्वरित और				
प्रशासकपत्रित पद			अधिकारी	

टिप्पणी: भारत सरकार में मंत्रिमंडल सचिवालय की मूल अधिसूचना दिनांक 28-2-1957 के का.नि.आ. संख्या 633 के तहत प्रकाशित की गई थी। तत्पश्चात् निम्नलिखित संशोधन अधिसूचित किए गए थे:—

मंत्रिमंडल सचिवालय अधिसूचना	का.आ. 2119 दिनांक 3-9-60
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मंत्रिमंडल सचिवालय, * खण्ड II विभाग अधिसूचना	का.आ. 898 दिनांक 31-3-62
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—वही—

का.आ. 436 दिनांक 8-2-1964

मंत्रीमंडल सचिवालय	मंत्रीमंडल सचिवालय	का.भा. 585 दिनांक 3-3-73
सांख्यिकी विभाग अधिसूचना का.भा. 3846 दिनांक 14-11-64	सांख्यिकी विभाग अधिसूचना	
—वही— का.भा. 1004 दिनांक 3-4-1965		
—वही— का.भा. 2718 दिनांक 17-9-66	योजना मंत्रालय, का.भा. 1951 दिनांक 12-6-76	
—वही— का.भा. 368 दिनांक 4-2-1967	सांख्यिकी विभाग अधिसूचना	
—वही— का.भा. 2250 दिनांक 14-6-69		
—वही— का.भा. 4172 दिनांक 18-10-69	—वही— का.भा. 289 दिनांक 4-2-1978	
—वही— का.भा. 1684 दिनांक 24-4-71		
—वही— का.भा. 1685 दिनांक 24-4-71	—वही— का.भा. 367 दिनांक 16-2-1980	

[संख्या ए-60011/1/92-प्रशा. III]

जी०डी० शर्मा, अवसर सचिव

MINISTRY OF PLANNING

(Department of Statistics)

New Delhi, the 1st October, 1992

S.O. 2775:—In exercise of the power conferred by sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of the rule 24, of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby makes the following further amendments in the Schedule to the notification of the Government of India in the Cabinet Secretariat at No. S.R.O. 633, dated the 28th February, 1957, namely :—

In the Schedule to the said notification, in Part-I General Central Services—Class II, under the heading “National Sample Survey Organisation”, for the existing entries, the following entries shall be substituted, namely :—

1	2	3	4	5
All Group 'B' Gazetted and Non-Gazetted Posts	Director	Director	All	Chief Executive Officer

NOTE : Original Notification of Govt of India in the Cabinet Secretariat was published vide SRO No. 633 dated 28-2-1957. Subsequently, the following amendments were notified :—

Cabinet Secretariat Notification	S.O. 2119 dated 3-9-60
Cabinet Secretariat Deptt of Statistics Notification	S.O. 898 dated 31-3-62
-do-	S.O. 436 dated 8-2-1964
-do-	S.O. 3846 dated 14-11-1964
-do-	S.O. 1004 dated 3-4-1965
-do-	S.O. 2718 dated 17-9-1966
-do-	S.O. 368 dated 4-2-1967
-do-	S.O. 2250 dated 14-6-1969
-do-	S.O. 4172 dated 18-10-1969
-do-	S.O. 1684 dated 24-4-1971
-do-	S.O. 1685 dated 24-4-1971
-do-	S.O. 585 dated 3-3-1973
Ministry of Planning Department of Statistics Notification	S.O. 1951 dated 12-6-1976
-do-	S.O. 289 dated 4-2-1978
-do-	S.O. 367 dated 16-2-1980.

[No. A-60011/1/92-Ad. III]

G.D. SHARMA, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 26 मार्च, 1993

(आयकर)

का.आ. 2776.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "द कैथोलिक डायोसिस ऑफ मेरु" को 1988-89 से 1990-91 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अध्वधीन रहने हुए, उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है अर्थात् :—

- (i) कर-निर्धारिता इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संवयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिता उपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक हंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (ज्वर-जवाहरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वेच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[सं. 9016/फा. सं. 197/145/86-आयकर नि-I]

शरत चन्द्र, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 26th March, 1992

(INCOME-TAX)

S.O. 2776.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Catholic Diocese of Meerut" for the purpose of the said sub-clause for the assessment years 1988-89 to 1990-91 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;

(ii) the assessee will not invest or deposit its funds (other than voluntary contribution received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;

(iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 9016/F. No. 197/145/86-IT. A.L.]

SHARAT CHANDRA, Under Secy.

नई दिल्ली, 14 जुलाई, 1992

(आयकर)

का.आ. 2777.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) क उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "कुरुक्षेत्र" विकास बोर्ड हरियाणा को कर-निर्धारण वर्ष 1991-92 से 1993-94 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहने हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिता इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संवयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिता उपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक हंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (ज्वर-जवाहरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वेच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[सं. 9056/फा.सं. 197/208/91-आयकर नि-I]

शरत चन्द्र, अवर सचिव

New Delhi, the 14th July, 1992

(INCOME-TAX)

S.O. 2777.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Kurukshetra Development Board, Haryana" for the purpose of the said sub-clause for the assessment years 1991-92 to 1993-94 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 9056/F. No. 197/208/91-IT A.I.]

SHARAT CHANDRA, Under Secy.

नई दिल्ली, 14 जुलाई, 1992

आयकर

का. अ. 2778.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23 ग) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री बाला मुरगन देवस्थानम् ट्रस्ट, अहमदाबाद" को कर निर्धारण वर्ष 1990-91 और 1991-92 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहते हुए उक्त उपखंड के योजनार्थ अधिसूचित करती है, अर्थात्:—

- (1) कर निर्धारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (2) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेंवर जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अवग से लेखा पुरितकाएं नहीं रखी जाती हों।

[सं. 9054/फा.सं. 197/23/92/आयकर नि I]

शरत चन्द्र, अवसर सचिव

New Delhi, the 14th July, 1992

(INCOME-TAX)

S.O. 2778.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Bala Murgan Devasthanam Trust, Ahmedabad" for the purpose of the said sub-clause for the assessment years 1990-91 and 1991-92 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 9054/F. No. 197/23/92-ITA.I]

SHARAT CHANDRA, Under Secy.

नई दिल्ली, 14 जुलाई, 1992

आयकर

का.अ. 2779.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23 ग) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री राघवेंद्र स्वामी मठ, आंध्र प्रदेश" को कर निर्धारण वर्ष 1990-91 से 1992-93 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (1) कर निर्धारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (2) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेंवर जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती उद्देश्य की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अवग से लेखा पुरितकाएं नहीं रखी जाती हों।

[सं. 9055/फा.सं. 197/32/92-आयकर नि I]

शरत चन्द्र, अवसर सचिव

New Delhi, the 14th July, 1992

(INCOME-TAX)

S.O. 2779.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Raghavendra Swamy Mutt, Andhra Pradesh" for the purpose of the said sub-clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contribution received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 9055/F. No. 197/32/92-ITA. I]

SHARAT CHANDRA, Under Secy.

नई दिल्ली, 18 अगस्त, 1992

(आयकर)

का. आ. 2780.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23 ग) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "कैथोलिक बिशप्स कॉन्फरेंस ऑफ इंडिया, नई दिल्ली" को कर निर्धारण वर्ष 1990-91 से 1992-93 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (1) कर निर्धारिती इसकी आय का इस्तेमाल प्रथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (2) कर निर्धारिती पर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (ज्वर जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक प्रशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की

प्राप्ति के लिए प्राप्तिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 9073/का.सं. 197/155/89-आ.कर-1]

भारत चन्द्र, अवर सचिव

New Delhi, the 19th August, 1992

(INCOME-TAX)

S.O. 2780.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Catholic Bishop's Conference of India, New Delhi" for the purpose of the said sub-clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9073/F. No. 197/155/89-IT(AI)]

SHARAT CHANDRA, Under Secy.

नई दिल्ली, 28 अगस्त, 1992

(आयकर)

का. आ. 2781.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "एस्लमिगु रामनाथ स्वामी टेम्पल रामेश्वरम" को कर निर्धारण वर्ष 1991-92 के 1993-94 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (1) कर-निर्धारिती इसकी आय का इस्तेमाल प्रथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;
- (2) कर-निर्धारिती ऊपर उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से

भिन्न तरीकों से इसकी निधि) (जेवर-जवाहरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में भलग से लेखा-पुस्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 9078/फा. सं. 197/83/92-आयकर नि-1]

शरत चन्द्र, अवर सचिव

New Delhi, the 28th August, 1992

(INCOME-TAX)

S.O. 2781.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Arulmigu Ramanathaswamy Temple, Rameswaram", for the purpose of the said sub-clause for the assessment years 1991-92 to 1993-94 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9078/F. No. 197/83/92-IT.A.I.]

SHARAT CHANDRA, Under Secy.

नई दिल्ली, 3 जून, 1992

(आयकर)

का.भा. 2782.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (5) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "दोहनाबुर फैलोशिप, दोहनाबुर," तिरुनेलवेली जिला को कर-निर्धारण वर्ष 1989-90 से 1991-92 तक के लिए निम्नलिखित शर्तों के अध्वधीन रखते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्

- (1) कर-निर्धारिती इसकी आय का हस्तेमाल अथवा इसकी आय का हस्तेमाल करने के लिए इसका संवयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;

(2) कर-निर्धारिती ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों को किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक वंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेवर-जवाहरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में भलग से लेखा-पुस्तिकाएँ नहीं रखी जाती हों।

[सं. 9042 / फा. सं. 197/147/91-आयकर नि-I]

केशव देव, उप सचिव

New Delhi, the 3rd June, 1992

(INCOME-TAX)

S.O. 2782.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Dohnavur Fellowship, Dohnavur", Tirunelveli District, for the purpose of the said sub-clause for the assessment years 1989-90 to 1991-92 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 ;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 9042/F. No. 197/147/91-IT.A.I.]

KESHAV DEV, Dy. Secy.

नई दिल्ली, 3 जून, 1992

(आयकर)

का. भा. 2783.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (5) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री श्री ठाकुर रामचन्द्रदेव एरोसिएशन, नई दिल्ली" को कर-निर्धारण वर्ष 1990-91 से 1992-93 तक के लिए

निम्नलिखित शर्तों के अधीन रहते हुए उक्त खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्—

नई दिल्ली, 24 सितम्बर, 1992

- (1) कर-निर्धारिता इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (2) कर-निर्धारिता ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा ही करवा सकेगा;
- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिप्राय के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।
[सं 9014/फा. सं. 197/56/92-आयकर (नि-I)]

केशव देव, उप सचिव

New Delhi, the 3rd June, 1992

(INCOME-TAX)

S.O. 2783.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Sri Thakur Ramachandradev Association", New Delhi, for the purpose of the said sub-clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 9041/F. No. 197/56/92-IT-A.I.]

KESHAV DEV, Dy. Secy.

का. आ. 2784:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "रत्नागिरि जिला ब्रिज एसोसिएशन, रत्नागिरि" को 1993-94 से 1995-96 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्—

- (1) कर-निर्धारिता उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन इस प्रकार के संचयन हेतु उक्त खण्ड (23) द्वारा यथा-संशोधित धारा 11 की उपधारा (2) तथा (3) के उपबंधों के अनु-रूप पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (2) कर-निर्धारिता ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, जिसे उपर्युक्त खण्ड (23) के तीसरे परन्तुक के अधीन बोर्ड द्वारा अधिसूचित किया जाए, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (3) कर-निर्धारिता अपने सदस्यों को किसी भी तरीके से अपनी आय के किसी भाग का संवि-रण अपने से संबद्ध किसी एसोसिएशन अथवा संस्था को अनुदान के अलावा नहीं करेगा; और
- (4) यह अधिसूचना किसी ऐसी आय के सम्बन्ध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हों, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 9101/फा. सं. 196/19/92-आयकर (नि-1)]

केशव देव, उप सचिव

New Delhi, the 24th September, 1992

S.O. 2784.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Ratnagiri Zilla Bridge Association, Ratnagiri" for

the purpose of the said clause for assessment years 1993-94 to 1995-96 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate it for application, in consonance with the provisions of sub-sections (2) and (3) of section 11 as modified by the said clause (23) for such accumulation wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as may be notified by the Board under the third proviso to the aforesaid clause (23) for any period during the previous year(s) relevant to the assessment year(s) mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and
- (iv) this notification will not apply in relation to any income, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9101/F. No. 196/19/92-IT(A)]
KESHAV DEV, Dy. Secy.

नई दिल्ली, 21 सितम्बर, 1992

(आयकर)

का. आ. 2785 :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 80-जी की उपधारा (2) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार “अरुलमिग अधुल्य नाम्देवर मन्दिर, अरकान्दा नल्लूर, थिरुकोयलूर” को सम्पूर्ण तमिलनाडु राज्य में वास्तुशिल्प तथा कलात्मक महत्व और सार्वजनिक पूजास्थल के रूप में उक्त खंड के प्रयोजनार्थ एतद्वारा अधिसूचित करती है।

[संख्या 9097/का. सं. 176/55/92—आयकर नि.-1]
केशव देव, उप सचिव

New Delhi, the 21st September, 1992

(INCOME-TAX)

S.O. 2785.—In exercise of the powers conferred by clause (b) of sub-section (2) of Section 80G of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Arulmigu Adulya Nadeswarar Temple, Arakanda Nallur, Thirukoilur” to be a place of Archaeological and artistic importance and a place of public worship in the State of Tamil Nadu for the purpose of the said section.

[No. 9097/F. No. 176/55/92-ITA-I]
KESHAV DEV, Dy. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 8 अक्टूबर, 1992

का. आ. 2786 :—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त

शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10-ब की उपधारा (1) तथा (2) के उपबन्ध, तमिलनाडु मरकेन्टाइल बैंक लि., टूटीकोरिन पर 18 सितम्बर, 1992 से 17 दिसम्बर, 1992 तक तीन महीने की अवधि के वास्ते अथवा बैंक के नियमित पूर्णकालिक अध्यक्ष की नियुक्ति होने तक, इनमें से जो भी पहले हो, लागू नहीं होंगे।

[सं. 15/5/89 का. सं. -III (i)]

के. के. मंगल, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 8th October, 1992

S.O. 2786.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-sections (1) and (2) of Section 10B of the said Act shall not apply to the Tamilnad Mercantile Bank Limited, Tuticorin for a period of three months from 18th September, 1992 to 17th December, 1992 or till the appointment of a regular wholetime chairman for that bank, whichever is earlier.

[No. 15/5/89-B.O. III(i)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 8 अक्टूबर, 1992

का. आ. 2787 :—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषित करती है कि उक्त अधिनियम की धारा 10-ब की उपधारा (9) के उपबन्ध, तमिलनाडु मरकेन्टाइल बैंक लि., टूटीकोरिन, पर 18 सितम्बर, 1992 से 17 दिसम्बर, 1992 तक अथवा बैंक के नियमित अध्यक्ष की नियुक्ति होने तक इनमें से जो भी पहले हो, उस सीमा तक लागू नहीं होंगे जहां तक बैंक को 9 महीने से अधिक के वास्ते अध्यक्ष एवं मुख्य कार्यपालक अधिकारी का कार्य करने के लिए किसी व्यक्ति को नियुक्त करने की छूट प्राप्त है।

[सं. 15/5/89—बि. ओ.-III(ii)]

के. के. मंगल, अवर सचिव

New Delhi, the 8th October, 1992

S.O. 2787.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (9) of section 10B of the said Act shall not, to the extent they preclude the bank from appointing a person to carry out the duties of the Chairman and Chief Executive

Officer beyond a period exceeding four months, apply to the Tamilnad Mercantile Bank Limited, Tuticorin from 18th September, 1992 to 17th December, 1992 or till the appointment of a regular Chairman for that bank, whichever is earlier.

[No. 15/5/89-B.O. III(ii)]

K. K. MANGAL, Under Secy.

New Delhi, the 20th October, 1992

S.O. 2789.—In exercise of the powers conferred by clause (e) of sub-section (1) of section 25 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), the Central Government hereby nominates Shri B. L. Sachdeva, Under Secretary, Ministry of Finance, Department of Economic Affairs (Banking Division), New Delhi, as Director of State Bank of Saurashtra vice Shri V. B. Mathur.

[No. F. 9/41/91-B.O.I. (ii)]

K. G. GOEL, Director

नई दिल्ली, 20 अक्टूबर, 1992

(व्यय विभाग)

का. आ. 2788 :—राष्ट्रीयकृत बैंक (प्रबंध और प्रतीर्ण उपबंध) योजना, 1970 की धारा 3 की उपधारा (ज) के अनुसरण में केन्द्रीय सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) नई दिल्ली के संयुक्त सचिव श्री के. श्रीनिवासन को श्री बी. वी. भट्ट के स्थान पर कनारा बैंक में निदेशक के रूप में नियुक्त करती है।

[नं. एफ 9/41/91—बी. ओ. I(i)]

के. जी. गोयल, निदेशक

नई दिल्ली, 16 अक्टूबर, 1992

का. आ. 2790 :—भविष्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निदेश देती है कि उक्त अधिनियम के उपबंध (धारा 6 को छोड़कर) दिल्ली विकास प्राधिकरण के कर्मचारियों के लाभ के लिए संस्थापित भविष्य निधि पर लागू होंगे।

[संख्या 4 (1)—संस्था V / 92 (II)]

जी. जोसेफ, निदेशक

New Delhi, the 20th October, 1992

S.O. 2788.—In pursuance of sub-clause (h) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby appoints Shri K. Srinivasan, Joint Secretary, Ministry of Finance, Department of Economic Affairs (Banking Division), New Delhi as a Director of Canara Bank vice Shri V. V. Bhat.

[No. F. 9/41/91-B.O. I(i)]

K. G. GOEL, Director

(Department of Expenditure)

New Delhi, the 16th October, 1992

S.O. 2790.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act (except section 6A) shall apply to the Provident Fund established for the benefit of the employees of the Delhi Development Authority.

[No. 4(1)-E.V./92(II)]

G. JOSEPH, Director

नई दिल्ली, 20 अक्टूबर, 1992

का. आ. 2789 :—भारतीय स्टेट बैंक (अनुपंगी बैंक) अधिनियम, 1959 (1959 का 38) की धारा 25 की उपधारा (1) के खण्ड (इ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा वित्त मंत्रालय, आर्थिक कार्य विभाग, बैंकिंग प्रभाग, नई दिल्ली में अवर सचिव श्री श्री. एल. सचदेव को श्री बी. वी. माथुर के स्थान पर स्टेट बैंक आफ सौराष्ट्र के निदेशक के रूप में नियुक्त करती है।

[संख्या 9/41/91—बी. ओ. I(ii)]

के. जी. गोयल, निदेशक

नई दिल्ली, 16 अक्टूबर, 1992

का. आ. 2791.—भविष्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त अधिनियम का अनुसूची में क्रम संख्या 145 पर निम्नलिखित लोक संस्थान को शामिल करती है—

“145. दिल्ली विकास प्राधिकरण”

[संख्या 4 (1)—संस्था V/92(1)]

जी. जोसेफ, निदेशक

New Delhi, the 16th October, 1992

S.O. 2791.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds at S. No. 145 to the Schedule to the said Act, the name of the following public institution, namely :—

"145. DELHI DEVELOPMENT AUTHORITY".

[No. 4(1)-E.V./92(1)]

G. JOSEPH, Director

कोयला मंत्रालय

शुद्धि-पत्र

नई दिल्ली, 16 अक्टूबर, 1992

कां०मां० 2702.—भारत के राजपत्र, तारीख 7 मार्च, 1992 के भाग 2 खंड 3, उपखंड (ii) में पृष्ठ क्रमांक 1268 से 1270 पर प्रकाशित भारत के कोयला मंत्रालय की अधिपूचना क्र० कां०मां० सं० 711, तारीख 19 फरवरी, 1992 में—

पृष्ठ क्र० 1268 अनुसूची में, ग्राम स्तम्भ के नीचे, क्रम संख्या 3 "ठाकुरदेवा" के स्थान पर "ठाकुरदेवा" पढ़ें, और जहाँ कहीं भी "ठाकुरदेवा" शब्द प्रयुक्त हुआ हो, उसी स्थान पर "ठाकुरदेवा" पढ़ें।

अर्जित किए जाने वाले प्लॉट संख्या के अन्तर्गत :—

"कोरमा" ग्राम के स्थान पर "गोरमा" ग्राम पढ़ें।

[कां०सं० 43015/27/89-एलएसडब्ल्यू]

बी०बी० राव, अव्वर सचिव

MINISTRY OF COAL

CORRIGENDUM

New Delhi, the 16th October, 1992

S.O. 2792.—In the notification of the Government of India in the Ministry of Coal number S.O. 711, dated the 19th February, 1992 published in Part-II, Section 3, Sub-section (ii) of the Gazette of India, dated the 7th March, 1992 at pages 1268 to 1270,—

at page 1269, in Notification in line 6, for "1450.48" read "1459.48",
in line 17, for "GM(PIG)" read "GM(PLG)",

at page 1270, in Schedule, in line 1, for "BA GAMAR FOR" read "RAJGAMAR FAR",
in Table, in line relating to Total, for "390.641" read "590.641".

[No. 43015/27/89-LSW]

B. B. RAO, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 16 अक्टूबर, 1992

कां०मां० 2793.—भारत के राजपत्र, तारीख 13 अप्रैल, 1991 के भाग 2, खंड 3, उपखंड (ii) में पृष्ठ क्रमांक 1730 से 1733 पर प्रकाशित, भारत सरकार के ऊर्जा

मंत्रालय (कोयला विभाग) की अधिपूचना कां०मां० सं० 1050, तारीख 2 अप्रैल, 1991 में—

पृष्ठ क्र० 1730—

अधिपूचना में—

पंक्ति 5 (और सक्षम" के स्थान पर "और सक्षम" पढ़ें

पंक्ति 15 "कलेक्टर शाहडोल" के स्थान पर "कलेक्टर शाहडोल" पढ़ें

अनुसूची "क" में :—

पंक्ति 4 "सभा अधिकारी" के स्थान पर "सभी अधिकारी" पढ़ें

सीमा वर्णन में—

रेखा क-5—क-6—क-7 "डोंगरिया खूँ के सम्मिलित के" के स्थान पर "डोंगरिया खूँ की सम्मिलित सीमा के" पढ़ें

पृष्ठ क्र० 1731—

अनुसूची "ख" में—

ग्राम भाटाडांड (पूर्ण) में अर्जित किए गए प्लॉट संख्यांक में—

"1 से 425" के स्थान पर "1 से 455" पढ़ें

पृष्ठ क्र० 1732—

सीमा वर्णन में—

1-ख 2-ख 3-ख 4 का स्थान पर "ख1-ख2-ख3-ख4" पढ़ें

रेखा ख1-ख2-ख3-ख4 में—

पंक्ति 1 "कुदरी थानगांव" के स्थान पर "कुदरी थानगांव" पढ़ें

रेखा ख16-ख17-ख18-ख19 में—

पंक्ति 2 "काठा" के स्थान पर "काठा" पढ़ें

रेखा ख19-ख20-ख21 में—

पंक्ति 1, 2 "कोरमा, कोठा, कुहूँ" के स्थान पर "कोरमा, कोठा, कुहूँ" पढ़ें

रेखा ख25-ख26-ख27-ख28-ख29 में—

पंक्ति 1 "सोमनाटोला केनापारा" के स्थान पर "सोमनाटोला केनापारा" पढ़ें

पंक्ति 2 "सोमनाटोला-केनापारा, लोहसारा ग्रामों के त्रिसंगमों के स्थान पर "सोमनाटोला, केनापारा, लोहसारा ग्रामों के त्रिसंगम" पढ़ें

रेखा ख29-ख30-ख31-ख32-ख33-ख34 में—

पंक्ति 1 "सोमनाटोला लोहसारा" के स्थान पर "सोमनाटोला लोहसारा" पढ़ें। "लोहसारा" के स्थान पर

“लोहसरा” पठे और जहाँ कहीं भी “लोहसरा” शब्द प्रयुक्त हुआ हो, उसी स्थान पर “लोहसरा” पठें।

पृष्ठ क्र० 1753 -

रेखा ख 42-ख 43-ख 44-ख 45-ख 46-ख 47-ख 48-ख 1 में — पंक्ति 1 “(अर्जन और विकास)” के स्थान पर “(अर्जन और विकास)” पठें।

[सं० 43015/1/85-सी०ए०/एल०एस० डब्ल्यू.]

बी०बी० राव, अवर सचिव

CORRIGENDUM

New Delhi, the 16th October, 1992

S.O. 2793.—In the notification of the Government of India in the then Ministry of Energy (Department of Coal) number S.O. 1050, dated the 2nd April, 1991, published at pages 1730 to 1736 of the Gazette of India, Part-II, Section 3, Sub-section (ii), dated the 13th April, 1991,—

at page 1735, “in Boundary Description, for “B4-B5-B6-B27” read “B4-B5-B6-B7” and for “B3-B14-B15-B16” read “B13-B14-B15-B16”.

[No. 43015/1/85-CA/LSW]

B. B. RAO, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 22 अक्टूबर, 1992

क्र०मा० 2794 :—भारत के राजपत्र भाग II, खण्ड 3, उपखण्ड (ii) तारीख 1 फरवरी, 1992 को पृष्ठ 358 से 359 पर प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना क्र०मा० सं० 373 तारीख 7 जनवरी, 1992 में :—

पृष्ठ संख्या 559 पर

अधिसूची में

- क्रम संख्या 4 में ग्राम नाम स्तम्भ के नीचे “हरदोली” के स्थान पर “हरदोली” पढ़िए। और जहाँ कहीं यह शब्द प्रयुक्त हुआ हो उसी स्थान पर “हरदोली” पढ़िए।
- क्रम संख्या 6 में ग्राम नाम स्तम्भ के नीचे “बम्हापुरी” के स्थान पर “बम्हापुरी” पढ़िए। और जहाँ कहीं भी यह शब्द प्रयुक्त हुआ हो उसी स्थान पर “बम्हापुरी” पढ़िए।
- क्रम संख्या 7 में तहसील स्तम्भ के नीचे “कामवेश्वर” के स्थान पर “कलमेश्वर” पढ़िए।
- क्रम संख्या 9 में ग्राम नाम स्तम्भ के नीचे “इटागोटी” के स्थान पर “इटनगोटी” पढ़िए। और जहाँ कहीं भी यह शब्द प्रयुक्त हुआ हो उसी स्थान पर “इटनगोटी” पढ़िए।
- क्रम संख्या 10 में ग्राम नाम स्तम्भ के नीचे “बिलोरी” के स्थान पर “बेलोरी” पढ़िए। और जहाँ कहीं भी यह शब्द प्रयुक्त हुआ हो उसी स्थान पर “बेलोरी” पढ़िए।
- क्रम संख्या 11 में तहसील स्तम्भ के नीचे “कलमेश्वर” के स्थान पर “कलमेश्वर” पढ़िए। और जहाँ कहीं भी यह शब्द प्रयुक्त हुआ हो उसी स्थान पर “कलमेश्वर” पढ़िए।

सीमा वर्णन में :—

- रेखा क-ख में “अमला, सीनपुर, रेन्गाव” के स्थान पर “आदासा, सीनपुर, वरन्हावा” पढ़िए।
- रेखा ख-घ में “वरन्हावा और सिलारी, इटागोटी और कुसुबी, पतन सोणी, बिलोरी (खुई) के स्थान पर “वरन्हावा और बिलोरी, इटनगोटी और कुसुबी, वाटनगामोरी, बेलोरी, (खुई),” पढ़िए।
- रेखा घ-ङ में “इटागोटी और पतनवा, बिलोरी और पतनवा” के स्थान पर “इटागोटी और पतनवा, बेलोरी और पतनवा” पढ़िए।
- रेखा च-च में “बिलोरी और टोन्हाखेरी, दरगांव और टोन्हा खेरी, शोरली, धुरखेड़ा और खोरली, मदनो, खानगांव और मदनो के स्थान पर “बेलोरी और टोन्हाखेरी, बोरगांव और टोन्हा खेरी, खोरली, धुरखेड़ा और शोरली, मदनो, खानगांव और मदनो, हरदोली और मदनो” पढ़िए।
- रेखा च-क में “हरदोली और धपेवाडा, अदगा और धपेवाडा” के स्थान पर “हरदोली और धपेवाडा, आदासा और धपेवाडा” पढ़िए।

[क्र० सं० 43015/20/91-एल०एस० डब्ल्यू.]

बी०बी० राव, अवर सचिव

पर्यावरण एवं वन मंत्रालय

नई दिल्ली, 9 अक्टूबर, 1992

क्र०मा० 2795 :—जीव जन्तु क़रारा निवारण अधिनियम, 1964 (1960 का 69) की धारा 5 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा पर्यावरण और वन मंत्रालय की अधिसूचना संख्या क्र० मा० त्तिक 11 मार्च, 1992 में निम्नलिखित संशोधन करती है :—

उपरोक्त अधिसूचना में :—

- (1) क्रम संख्या 18 और उससे संबंधित प्रविष्टि के लिए निम्नलिखित क्रम संख्या और प्रविष्टि रखी जाएगी, नामतः :

“18. ओ एस. ओस्टिन धारा 5(1)(i) के तहत संसद सदस्य, राज्य सभा। नामांकित सदस्य”

- (2) क्रम संख्या 22 और उससे संबंधित प्रविष्टियों के पश्चात् निम्नलिखित क्रम संख्या और प्रविष्टियाँ जोड़ी जाएँगी, नामतः :—

“23 ओ एल०वी० सितादे, धारा 5(1)(ख) (क) के अंतर्गत निदेशक, नियुक्त सदस्य”

गृह मंत्रालय,

गार्थ ब्लॉक,

नई दिल्ली।

[क्र० संख्या 1-8/91-ए० डब्ल्यू०]

एम०एल० वंसो, निदेशक (ए० डब्ल्यू०)

पाठ विस्पष्टी :—अधिसूचना 11 मार्च, 1992 की क्र०मा० संख्या 222 (ई) के तहत प्रकाशित की गई थी तथा बाद में इसमें 25 जुलाई, 1992 की क्र०मा० संख्या 1967 के तहत संशोधन किया गया था।

MINISTRY OF ENVIRONMENT & FORESTS

New Delhi, the 9th October, 1992

S.O. 2795.—In exercise of the powers conferred by Section 5A of the Prevention of Corruption Act, 1950 (59 of 1950), the Central Government hereby makes the following amend-

ments to the Notification of the Ministry of Environment and Forests, No. S.O. 222(E), dated the 11th March, 1992.

In the said Notification...

- (1) for Serial Number 18 and the entry relating thereto, the following Serial Number and the entry shall be substituted, namely :—

“18. Shri S. Austin. Member elected under section 5(1)(i)”;
Member of Parliament, Rajya Sabha

- (2) after Serial Number 22 and the entries relating thereto, the following Serial Number and the entries shall be added, namely :—

“23. Shri L.B. Sinate, Member appointed under Section 5(1)(ba).”
Director,
Ministry of Home Affairs,
North Block, NEW DELHI.

[F. No. 1-9/91-AW]

M.L. SHARMA, Director (Animal Welfare)

Foot Note : The principal Notification was published vide S.O. No. 222(E) dated 11th March, 1992 and subsequently amended vide S.O. No. 1967 dated 25th July, 1992.

विद्युत मंत्रालय

सारणी

नई दिल्ली, 15 जुलाई, 1992

का. घा. 2796.—सार्वजनिक परिसर (असद्विकृत अधिभोगियों की बेकवर्सी) अधिनियम, 1971 (1971 का 40) की प्राग-3 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार एतद्द्वारा नीचे दी गई सारणी के कायम (1) में निविष्ट अधिकारी जो कि भारत सरकार के राजपत्रित अधिकारी के समकक्ष हैं, को कथित अधिनियम के प्रयोजनों हेतु सम्पदा अधिकारी नियुक्त करती है। जो कथित सारणी के कायम-2 में संगत प्रविष्टि में निविष्ट सार्वजनिक परिसरों के बारे में कथित अधिनियम द्वारा अथवा इसके अन्तर्गत सम्पदा अधिकारी को प्रदत्त की गई शक्तियों का उपयोग अपने अधिकारक्षेत्र की स्थानीय सीमाओं के अन्दर कर सकेगा और सम्पदा अधिकारी को सौंपे गए कर्तव्यों का निर्वहण करेगा:—

अधिकारी का पदनाम सार्वजनिक परिसरों की भेगियों और अधिकार क्षेत्र को स्थानीय सीमाएं

वरिष्ठ प्रबन्धक (पुनर्वास)	भारत में किसी भी स्थात पर
टिहरी हाइड्रो इलेक्ट्रिक कारपोरेशन	टिहरी हाइड्रो इलेक्ट्रिक कार-
भागीरथ भवन, (टाप टरेस ,	पोरेशन से सम्बन्धित अथवा
भागेशपुरम, टिहरी (गङ्गाब)	इसके द्वारा लोड पर नियंत्रण
	अथवा इसके द्वारा या इसको
	ओर से अधिसूचित परिसर।

[सं. 5/9/92—डी. (टी. एम्ब एन.)]

बी. के. खन्ना, सचिव सचिव

MINISTRY OF POWER New Delhi, the 15th July, 1992

S.O. 2796:—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971(40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, -being- an officer equivalent in rank to a gazetted officer of Government, to be estate officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on the estate officer by or under the said Act, within the local limits of his jurisdiction in respect of the Public Premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of the officer

Categories of the Public Premises and local limits of jurisdiction

(1)

(2)

Senior Manager (Rehabilitation) Tehri Hydro Development Corporation Bhagirath Bhawan, (Top Terrace) Bhagirathpura, Tehri (Garhwal).

Premises belonging to or taken on lease or requisition by or on behalf of the Tehri Hydro Development Corporation at any place in India.

[No. 5/92-D (T&N)]

V.K. KHANNA, Jt. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 24 दिसम्बर, 1992

का. भा. 2797.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रवर्तन शक्तियों का प्रयोग करने हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात्, उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, यथातः—

उक्त अनुसूची में,—

(1) "गोवा विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अंतर्स्थापित की जाएँगी, यथातः—

मास्टर आफ सर्जरी एम. एस. (सा. श. वि.)
(सामान्य शल्य विज्ञान) (1 अगस्त, 1989 को या इसके पश्चात् प्रदान की गई)

डाक्टर आफ मेडिसिन एम. डी. (एनेस्थी)
(एनेस्थीसियोलॉजी) (1 फरवरी, 1990 को या इसके पश्चात् प्रदान की गई)

डाक्टर आफ मेडिसिन एम. डी. (वि. वि.) के
(विकृति विज्ञान) (1 फरवरी, 1990 को या इसके पश्चात् प्रदान की गई)

मास्टर आफ सर्जरी एम. स. (घायों)
(घायोंविज्ञान) (1 अगस्त, 1989 को या इसके पश्चात् प्रदान की गई)

डाक्टर आफ मेडिसिन एम. डी. (सा. आ.)
(सामान्य आयुर्विज्ञान) (1 अगस्त, 1989 को या इसके पश्चात् प्रदान की गई)

डाक्टर आफ मेडिसिन
(बाल चिकित्सा विज्ञान)

एम. डी. (सा. वि. वि.)
(1 फरवरी, 1990 को या इसके पश्चात् प्रदान की गई)।

(2) "रवि शंकर विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अंतर्स्थापित की जाएँगी,
"डिप्लोमा इन धार्योविज्ञान" डी. धाथी

(1 जुलाई 1990 को या इसके पश्चात् प्रदान की गई)

मास्टर आफ सर्जरी
(घायोंविज्ञान)

एम. एस. (घायों)
(1 जुलाई, 1992 को या इसके पश्चात् प्रदान की गई)

(3) "वसिणी गुजरात विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अंतर्स्थापित की जाएँगी, यथातः—

"मास्टर आफ सर्जरी एम. एस. ने. वि.)
(नेत्र विज्ञान) (1 मार्च, 1996 को या इसके पश्चात् प्रदान की गई)

डिप्लोमा इन धार्योविज्ञान डी. डी.
(1 दिसम्बर, 1984 को या इसके पश्चात् प्रदान की गई)।

इस अधिनियम में उल्लिखित विश्वविद्यालयों द्वारा की गई चिकित्सा शैक्षणिक तथा शल्य चिकित्सा शैक्षणिक शक्ति अर्जित करने वाले प्रत्येक के सामने उल्लिखित तारीख को या इसके पश्चात् प्रदान की जानी है।

[(सं. डी./11015/31/92 (एच ई) (यू पी)]

प्रार. विजयकुमारी, डेप्ट. अधिकारी

MINISTRY OF HEALTH & FAMILY WELFARE

(Department of Health)

New Delhi, the 24th September, 1992

S.O. 2797.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government after consulting the Medical

Council of India hereby makes the following further amendment in the First Schedule to the said Act, namely :—

In the said Schedule, (1) under the heading "Goa University", after the entries, the following entries shall be inserted, namely :—

"Master of Surgery (General Surgery)	M.S. (Gen. Surg.) (Granted on or after 1st August, 1989).
Doctor of Medicine (Anaesthesiology)	M.D. (Anaes.) (Granted on or after 1st February, 1990)
Doctor of Medicine (Pathology)	M.D. (Pathology) (Granted on or after 1st February, 1990)
Master of Surgery (Orthopaedics)	M.S. (Ortho.) (Granted on or after 1st August, 1989)
Doctor of Medicine (General Medicine)	M.D. (Gen. Med.) (Granted on or after 1st August, 1989)
Doctor of Medicine (Paediatrics)	M.D. (Paed.) (Granted on or after 1st February, 1989)"

(2) under the heading "Ravishankar University", after the entries, the following entries shall be inserted, namely :—

"Diploma in Orthopaedics	D. Ortho. (Granted on or after 1st July, 1980)
Master of Surgery (Orthopaedics)	M.S. (Ortho.) (Granted on or after 1st July, 1982)"

(3) under the heading "South Gujarat University", after the entries, the following entries shall be inserted namely :—

"Master of Surgery (Ophthalmology)	M.S. (Optho.) (Granted on or after 1st March, 1986)
Diploma in Ophthalmology	D.O. (Granted on or after 1st December, 1984)"

The medical qualifications issued by the Universities mentioned in this notification shall be recognised medical qualifications when granted on or after the date mentioned against each.

[No. V. 11015/31/92-ME(UG)]

R. VIJAYAKUMARI, Desk Officer.

नई दिल्ली, 3 अक्टूबर, 1992

का.प्र. 2/73:—केंद्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् के परामर्श करने के पश्चात्, उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अनुसूची में,

(1) महाराष्ट्र विश्वविद्यालय शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—

	एम.बी. (एनेस्थी)"
(2) "बुवेलखंड विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—	
"डाक्टर ऑफ मेडिसिन (एनेस्थीसियोलॉजी)	एम.डी. (एनेस्थी)"
"डिप्लोमा इन एनेस्थीसियोलॉजी	डि. ए. "
(3) "कलकत्ता विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियां अंतःस्थापित की जाएगी, अर्थात् :—	
"डाक्टर ऑफ मेडिसिन (हृदय रोग विज्ञान)	डी.एम. (हृ. रोग वि.)"
"डाक्टर ऑफ मेडिसिन (सूक्ष्म जीवाणु विज्ञान)	एम.डी. (सू. जी. वि.)

डाक्टर ऑफ मेडिसिन (रेडियो-हायड्रोसिस) एम.डी. (रेडियो-हायड्रोसिस)

(4) "काशीकट विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (एनेस्थीसियोलॉजी) एम.डी. (एनेस्थी)

(5) "दिल्ली विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (तंत्रिका विज्ञान) डी. एम. (तंत्रिका वि.)"

(6) "गुवाहाटी विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (गामाजक्ति और निवारक (एम.डी.सी. और प्रायुर्विज्ञान) नि. प्रायु.)"

(7) "गुलबर्गा विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (रेडियो-गुण विज्ञान) एम.डी. (रे.गु.वि.)"

(8) "केरल विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (तंत्रिका विज्ञान) डी.एम. (तंत्रिका वि.)"

(9) "मंगलूर विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अंतःस्थापित की जाएगी, अर्थात् :—

"डिप्लोमा इन गहनिकोलाजी एंड माइक्रोडिग्नोसिस डी.जी.सी.,
डाक्टर ऑफ मेडिसिन (बाल चिकित्सा विज्ञान) एम.डी. (बा.चि.वि.)
डिप्लोमा इन माइक्रोडिग्नोसिस डी.सी.एच."

(10) "मेरठ विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—

"मास्टर ऑफ सर्जरी (प्राथमिक विज्ञान) एम.एस. (प्राथमिक वि.)"

(11) "मैसूर विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (डर्मेटोलॉजी एंड वेनेरियोलॉजी) एम.डी. (डर्म. एंड वेन.)"

डिप्लोमा इन वेनेरियोलॉजी एंड डर्मेटोलॉजी डी.पी.डी.
डाक्टर ऑफ मेडिसिन (रेडियो-हायड्रोसिस) एम.डी. (रेडियो-हायड्रोसिस)
मास्टर ऑफ सर्जरी (शरीर विज्ञान) एम.एस. (श.चि.वि.)
डाक्टर ऑफ मेडिसिन (बाल चिकित्सा विज्ञान) एम.डी. (बा.चि.वि.)
डिप्लोमा इन माइक्रोडिग्नोसिस डी.सी.एच.

(12) "पांडिचेरी विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (सूक्ष्म जीवाणु विज्ञान) एम.डी. (सू.जी.वि.)
डाक्टर ऑफ मेडिसिन (चिकित्सा विज्ञान) एम.डी. (चि.वि.)
डाक्टर ऑफ मेडिसिन (बाल चिकित्सा विज्ञान) एम.डी. (बा.चि.वि.)"

(13) "राजस्थान विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अंतःस्थापित की जाएगी, अर्थात् :—

डाक्टर ऑफ मेडिसिन (डर्मेटोलॉजी), एम.डी. (डर्म. वेन. एंड वेनरियोलॉजी एंड लेप्रोसी)
मास्टर ऑफ सर्जरी (तंत्रिका शास्त्र विज्ञान) एम.सी.एच. (तंत्रिका वि.)

(14) "संबलपुर विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (एनेस्थीसियोलॉजी) एम.डी. (एनेस्थी)
डाक्टर ऑफ मेडिसिन (बाल चिकित्सा विज्ञान) एम.डी. (बा.चि.वि.)"

(15) "बीरपुर विश्वविद्यालय" शीर्षक के नीचे की प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टि अंतःस्थापित की जाएगी, अर्थात् :—

"डाक्टर ऑफ मेडिसिन (सूक्ष्म जीवाणु विज्ञान) एम.डी. (सू.जी.वि.)"

[सं. बी. 11015/24/92—एम.ई. (यू.जी.)]

भार. विनय सुतादी, हेरु प्रकाशदी

New Delhi, the 8th October, 1992

S.O. 2798.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government after consulting the Medical Council of India hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule,

(1) under the heading "Berhampur University", after the entries, the following entries shall be inserted, namely:—

"Doctor of Medicine (Anaesthesiology) M.D. (Anaes.)"

(2) under the heading "Bundelkhand University", after the entries, the following entries shall be inserted, namely:—

"Doctor of Medicine (Anaesthesiology) M.D. (Anaes.)
Diploma in Anaesthesiology D.A."

(3) under the heading "University of Calcutta", after the entries, the following entries shall be inserted, namely:—

Doctor of Medicine (Cardiology) D.M. (Micro)
Doctor of Medicine (Radio-Diagnosis) M.D. (Radio-Diag.)

Doctor of Medicine (Microbiology) M.D. (Micro.)

(4) under the heading "Calicut University", after the entries, the following entries shall be inserted, namely:—

"Doctor of Medicine (Anaesthesiology) M.D. (Anaes.)"

(5) under the heading "University of Delhi", after the entries, the following shall be inserted, namely:—

"Doctor of Medicine (Neurology) D.M. (Neurology)"

(6) under the heading "University of Gauhati", after the entries, the following entries shall be inserted, namely:—

"Doctor of Medicine (Social & Preventive Medicine) M.D. (S & PM)"

(7) under the heading "Gulbarga University", after the entries, the following shall be inserted, namely:—

"Doctor of Medicine (Pharmacology) M.D. (Pharm.)"

(8) under the heading "University of Kerala", after the entries, the following shall be inserted, namely:—

"Doctor of Medicine (Neurology) D.M. (Neurology)"

(9) under the heading, "Mangalore University", after the entries, the following entries shall be inserted, namely

"Diploma in Gynaecology and Obstetrics D.G.O.
Doctor of Medicine (Paediatrics) M.D. (Paed.)
Diploma in Child Health D.C.H."

(10) under the heading, "Meerut University", after the entries, the following entry shall be inserted, namely:—

"Master of Surgery (Orthopaedics) M.S. (Ortho.)"

(11) under the heading, "University of Mysore", after the entries, the following entries shall be inserted, namely:—

"Doctor of Medicine (Dermatology & Venereology) M.D. (Derm. & Ven.)"

Diploma in Venereology and Dermatology D.V.D.
Doctor of Medicine (Radio-

diagnosis) M.D. (Radio-Diag.)

Master of Surgery (Anatomy) M.S. (Anatomy)

Doctor of Medicine (Paediatrics) M.D. (Paed.)

Diploma in Child Health D.C.H."

(12) under the heading "Pondicherry University", after the entries, the following entries shall be inserted, namely:—

Doctor of Medicine (Microbiology) M.D. (Microbiology)
Doctor of Medicine (Pathology) M.D. (Pathology).
Doctor of Medicine (Paediatrics) M.D. (Paed).

(13) under the heading, "University of Rajasthan", after the entries, the following entries shall be inserted, namely:—

"Doctor of Medicine (Dermatology
Venereology and Leprosy) M.D. (Derm. Ven. &
Leprosy).

Master of Surgery (Neuro Surgery) M.Ch. (Neuro-
Surgery).

(14) under the heading, "Sambalpur University", after the entries, the following entries shall be inserted, namely:—

"Doctor of Medicine (Anaesthesiology) M.D. (Anaes.)
Doctor of Medicine (Paediatrics) M.D. (Paed).

(15) under the heading, "Saurashtra University", after the entries, the following shall be inserted, namely:—

"Doctor of Medicine (Microbiology) M.D. (Microbiology)

R. VIJAYAKUMARI, Desk Officer

[No. V. 11015/24/92-ME(UG)]

सूचना और प्रसारण मंत्रालय

गुप्त पत्र

नई दिल्ली, 1 अक्टूबर, 1992

का.घा. 2799—केंद्रीय फिल्म प्रमाणन बोर्ड के कमकला सलाह-
कार पैनल के सदस्यों की नियुक्ति के संबंधित दिनांक 2-7-92 की सूचना
और प्रसारण मंत्रालय, भारत सरकार की अधिसूचना संख्या 809/3/92-
एफ (सी) में—

शंक और शब्दों "8. श्रीमती अबानी चट्टाचार्य" के स्थान पर
"8 श्री अबानी चट्टाचार्य" पढ़ा जाए।

[कार्य संख्या 809/3/92-एफ(सी)]

एम.एस. सेठी, डेस्क अधिकारी

MINISTRY OF INFORMATION & BROADCASTING

CORRIGENDUM

New Delhi, the 1st October, 1992

S.O. 2799.—In the Notification of Government of India
in the Ministry of Information and Broadcasting No. 809/
3/92-F(C), dated 2-7-92 regarding appointment of members
of the Calcutta Advisory Panel of Central Board of Film
Certification,

for the figure and words "8. Mrs Abani Bhattacharya",
read "8. Mr. Abani Bhattacharya".

[File No. 809/3/92-F(C)]

M. S. SETHI, Desk Officer

नई दिल्ली, 7 अक्टूबर, 1992

का.घा. 2800—व्यक्ति (प्रमाणन) नियम 1983 के नियम 7
और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की
धारा 5 की उपधारा (1) के द्वारा प्रदर्शित शक्तियों का प्रयोग करते हुए
और इस मंत्रालय की (1) दिनांक 30-9-91 की सं. 809/3/91
एफ (सी) (ii) दिनांक 24-8-92 की सं. 809/1/92-एफ(सी) और

दिनांक 26-8-92 की सं. 809/1/92-एफ(सी) की अधिसूचनाओं के
अनुक्रम में केंद्र सरकार श्रीमती विद्या बेलोसे, 31, सागर, आठवीं मंज.
और रोड, चर्च गेट, बम्बई को केंद्रीय फिल्म प्रमाणन बोर्ड की बम्बई
सलाहकार पैनल के सदस्य के रूप में तत्काल प्रभाव से नियुक्ति करने
तक नियुक्ति करती है।

[फा. सं. 809/1/92-एफ(सी)]

एम.एस. सेठी, डेस्क अधिकारी

New Delhi, the 7th October, 1992

S.O. 2800.—In exercise of the powers conferred by sub-
section (1) of section 5 of the Cinematograph Act, 1952
(37 of 1952) read with rules 7 and 8 of the Cinematograph
(Certification) Rules, 1983 and in continuation of this Min-
istry's Notifications (i) No. 809/3/91-F(C) dated 30-9-91,
(ii) No. 809/1/92-F(C) dated 24-8-92 and (iii) No. 809/1/
92-F(C) dated 26-8-92, the Central Government is pleased
to appoint Smt. Vidya Belose, 31, Sagar, 8th Floor, B.
Road, Church Gate, Bombay as member of the Bombay
advisory panel of the Central Board of Film Certification
with immediate effect and until further orders.

[File No. 809/1/92-F(C)]

M. S. SETHI, Desk Officer

नई दिल्ली, 16 अक्टूबर, 1992

का. मा. 2801.—केंद्रीय सरकार, राजभाषा (संघ के
शासकीय प्रयोजनों के लिए प्रयोग) नियम 10 के उपनियम (4)
के अनुसरण में सूचना और प्रसारण मंत्रालय के निम्नलिखित
कार्यालय को, जिनके कर्मचारी बृन्द ने हिंदी का कार्यसाधक
ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

दूरदर्शन अल्प शक्ति प्रेषण केन्द्र,

गंदसौर, मध्य प्रदेश।

[संख्या ई-11011/37/91-हिंदी]

पी. के. गोरारारा, निदेशक (राजभाषा)

New Delhi, the 16th October, 1992

S.O. 2801.—In pursuance of Sub-rule (4) of rule 10 of
the Official Languages (use for official purpose of the
Union) Rules, 1976, the Central Government hereby notify
the following office of the Ministry of Information and
Broadcasting the Staff whereof have acquired the working
knowledge of Hindi:—

Doordarshan Low Power Transmitter,

Mandshaur,

Madhya Pradesh.

[No. E-11011/37/91-Hindi]

P. K. GORAWARA, Director (O.L.)

विल्ली विकास प्राधिकरण

नई दिल्ली 27, अक्टूबर, 1992

सार्वजनिक सूचना

का.आ. 2802—केंद्रीय सरकार का, विल्ली की मूख योजना/
केंद्रीय विकास योजना में निम्नलिखित संशोधन करने का प्रस्ताव
है, जिसे जनता की जानकारी के लिए एनडू द्वारा प्रकाशित किया
जाता है। प्रस्ताव संशोधन के संबंध में यदि किसी व्यक्ति
को कोई आपत्ति हो अथवा कोई सुझाव देना हो तो अपनी

आपनि अथवा सुझाव हम सुचना के जारी होने की तारीख से 30 दिनों की अवधि के अन्दर सचिव, दिल्ली विकास प्राधिकरण, विकास सदन, "बी" ब्लॉक, आई.एन.ए., नई दिल्ली को लिखित रूप में भेज दें। आपनि करने अथवा सुझाव देने वाले व्यक्ति को आपना नाम एवं पता भी अवश्य देना चाहिए।

संज्ञाश्रम :

"उत्तर-पूर्व में गोकुलपुरी गांव में घिरे, दक्षिण में बजीरा-बाद मार्ग में घिरे और पश्चिम में पूर्वी यमुना नहर/गोकुलपुरी पुनर्वास कालोनी से घिरे लगभग 2.4 हेक्टेयर (5.92 एकड़) क्षेत्र के भूमि उपयोग को "आवासीय उपयोग" से "सार्वजनिक और अर्ध सार्वजनिक सुविधाओं" (सुविधा सेवा-केंद्र) में बदलने का प्रस्ताव है।"

2. प्रस्तावित संशोधन को दर्शाने वाला नक्शा, निरीक्षण के लिए उपयुक्त अवधि के अन्दर सभी कार्य-दिवसों में उप-निर्देशक मुख्य योजना अनुभाग विकास मीनार, छठी मंजिल, इंदरप्रस्थ मस्टेट, नई दिल्ली के कार्यालय में उपलब्ध रहेगा।

[सं. एक. 20(14)/91-एम. पी.]

रणवीर सिंह, सचिव

DELHI DEVELOPMENT AUTHORITY

New Delhi, the 27th October, 1992

PUBLIC NOTICE

S.O. 2802.—The following modification which the Central Government proposes to make to the Master Plan/Zonal Development Plan for Delhi, is hereby published for public information. Any person having any objection/suggestion with respect to the proposed modification may send the objection/suggestion in writing to the Secretary, Delhi Development Authority, 'B' Block, Vikas Sadan, I.N.A., New Delhi within a period of 30 days from the date of issue of this notice. The person making the objection/suggestion should also give his name and address.

MODIFICATION :

"The land use of an area measuring about 2.4 ha. (5.92 acres) and bounded by Gokulpuri Village in the North-East Wazirabad road in the South and Eastern Yamuna Canal/Gokulpuri Resettlement Colony in the West, is proposed to be changed from 'residential' to 'public and semi-public facilities' (Facility-Service-Centre)."

MINISTRY OF CIVIL AVIATION & TOURISM

New Delhi, the 30th September, 1992

S. O. 2803 :—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the following officers, being gazetted officers of the Government or of equivalent rank, as estate officers for the purposes of the said Act, in respect of the residential accommodation and land belonging to the Directorate General of Civil Aviation and located at the stations indicated against each :

Designation of the Officer	Station
(i) Controller of Airworthiness, Delhi	Delhi
(ii) Controller of Airworthiness, Bombay	Bombay

2. The plan indicating the proposed modification will be available for inspection at the office of Deputy Director, Master Plan Section, Vikas Minar, 6th Floor, I.P. Estate New Delhi on all working days within the period referred to above.

[No. F. 20(14)/91-MP]

RANBIR SINGH, Secy.

नागर विमानन और पर्यटन मंत्रालय

नई दिल्ली, 8 अक्टूबर, 1992

का.आ. 2803.—लोक परिसर (अनाधिकृत कब्जा देखखली) अधिनियम 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, नागर विमानन महानिदेशालय से संबंधित भूमि और आवास स्थान के मामले में कथित अधिनियम के उद्देश्य से भारत सरकार के राजपत्रित अधिकारी या इसके समकक्ष एक होने के कारण निम्नलिखित अधिकारियों को प्रत्येक के सामने बिखाए गए स्टेशन पर संपदा अधिकारी के रूप में नियुक्त करती है।

अधिकारी का पदनाम	स्टेशन
1. नियंत्रक उड़नयोग्यता, दिल्ली	दिल्ली
2. नियंत्रक उड़नयोग्यता, बम्बई	बम्बई
3. नियंत्रक उड़नयोग्यता, कलकत्ता	कलकत्ता
4. नियंत्रक उड़नयोग्यता, हैदराबाद	हैदराबाद
5. नियंत्रक उड़नयोग्यता, लखनऊ	लखनऊ
6. नियंत्रक उड़नयोग्यता, पटना	पटना
7. नियंत्रक उड़नयोग्यता, भोपाल	भोपाल
8. नियंत्रक उड़नयोग्यता, मद्रास	मद्रास
9. नियंत्रक उड़नयोग्यता, बंगलोर	बंगलोर
10. नियंत्रक उड़नयोग्यता, कानपुर	कानपुर
11. वरिष्ठ उड़नयोग्यता, अधिकारी गुवाहाटी	गुवाहाटी
12. वरिष्ठ उड़नयोग्यता, अधिकारी त्रिवेंद्रम	त्रिवेंद्रम

[का. सं. डी-11014/1/92-स्था-1 (बीई)]

प्रकाश चन्द्र, अवर सचिव

Designation of the Officer	Station
(iii) Controller of Airworthiness, Calcutta	Calcutta
(iv) Controller of Airworthiness, Hyderabad	Hyderabad
(v) Controller of Airworthiness, Lucknow	Lucknow
(vi) Controller of Airworthiness, Patna	Patna
(vii) Controller of Airworthiness, Bhopal	Bhopal
(viii) Controller of Airworthiness, Madras	Madras
(ix) Controller of Airworthiness, Bangalore	Bangalore
(x) Controller of Airworthiness, Kanpur	Kanpur
(xi) Senior Airworthiness Officer, Guwahati	Guwahati
(xii) Senior Airworthiness Officer, Trivandrum	Trivandrum

[F. No. D-11014/1/92-E1(VE)]

PRAKASH CHANDRA, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 8 अक्टूबर, 1992

का.प्र. 2804.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै० टिस्को की 6/7 पिट्स जामादोबा केलियरी के प्रबंधन के संबंध में नियोजकों और उनके कामकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-92 को प्राप्त हुआ था।

[संख्या एल-20012/271/82-डी-2(ए)]

वी. के. वेणुगोपालन, डैस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 8th October, 1992

S.O. 2804.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of 6/7 Pits Jamadoba Colliery of M/s. TISCO and their workmen, which was received by the Central Government on 7-10-1992.

[No. L-20012/271/82-D.II (A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram. Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

Reference No. 36 of 1983

PARTIES :

Employers in relation to the management of 6/7 Pits Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited and their workmen.

APPEARANCES :

On behalf of the workmen—None.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dhanbad, the 30th September, 1992

AWARD

The Government of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/271/82-D.II (A) dated, the 19th April, 1983.

SCHEDULE

"Whether the action of the management of 6/7 Pits Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited in placing the 11 Tyndals listed in the Annexure below in piece-rated category instead of in time-rated category is justified? If not, to what relief are these workmen entitled?"

ANNEXURE

1. Shri Sushil Prasad Das
2. Shri Jamuna Yadav
3. Shri Sankar Mandal
4. Shri Mustafa
5. Shri Surender Rajbar
6. Shri Safait Mia
7. Shri Jahawar Saw
8. Shri Salim
9. Shri Jay Karan Turi
10. Shri Manik Gorai
11. Shri Haris Chand.

2. All the concerned workmen 11 in No. were appointed as piece rated Tyndal Mazdoor with effect from October, 1977-vide Ext. M-3. It was the case of the concerned work-

men that they were paid less wages than the time rated mazdoors and as a result whereof they have been facing financial loss and other consequential loss. It was stated that according to the practice prevailing in the Coal Mining Industries as also in the Collieries of the 6/7 Pits Jamadoba Colliery the rate of wages paid to the heavy tyndal are on time rated basis where as the concerned workmen are paid on piece rated basis. This matter was raised before the management by the union to regularise the wage rate from piece rated to time rate basis but it was of no use. The workmen having failed to receive justice at the hands of the management represented their case before the ALC (C) Dhanbad who also took up the matter with the parties and held conciliation proceeding but that too ended in failure giving rise to the present reference. Accordingly it has been prayed that the concerned workmen should be paid wages on time rated basis with all consequential benefits with effect from their respective date of employment as heavy tyndal. They have also prayed that the management be directed to make payment of the losses suffered by them on account of less payment.

3. The management on the other hand has denied the claim. Admittedly, all the 11 concerned workmen were working as heavy tyndal in 6/7 Pits Colliery and they have been put in piece rated category in Group V. It was stated that payment to the piece rated heavy tyndal is made on the basis of different items of work done by him. Mostly the work performed by the piece rated heavy tyndals concerned shifting and carrying of different items such as cable shifting, drill pannel shifting etc. It was urged that the rate prescribed for piece rated workmen is in the nature of incentive and piece rated heavy tyndal mazdoor can earn more than the time rated heavy tyndal depending upon the efforts put by them. Lastly it was submitted that whenever any permanent vacancy of time rated heavy tyndal arises the piece rated heavy tyndals are given preference over the others. In this way the earning of the piece rated heavy tyndal are no way less than earnings of the time rated heavy tyndals and in that view of the matter the concerned workmen have no claim.

4. The question for consideration would be as to whether the concerned workmen are entitled to be placed as time rated heavy tyndals ?

5. It may be mentioned at the very outset that no proper step could be taken on behalf of the workmen since after their filling of the W.S. Even after long adjournment there was no response from the side of the workmen and hence nobody turned up even at the time of argument from the side of the workmen. However, the management examined one Shri S. Subramoni as MW-1 who has been working as Dy. Manager, Welfare in Tisco Collieries. He recognised all the concerned workmen who were piece rated tyndals. He stated that they were time rated tyndals in the said Colliery who were in Category IV. According to him piece rated tyndals were taken as employees from amongst the dependants of the workmen. There is difference between time rated and piece rated tyndals so far the nature of duties are concerned. The witness explained that shifting business of the machinery is performed by the piece rated tyndals while the time rated tyndals work along with the fitters, engineers, foreman etc. They help the engineers in the work of installation etc. According to him piece rated tyndals earn more than time rated tyndals. The witness has proved certain documents which have been marked exhibits M-1 to M-4. In cross-examination nothing has been elicited to disbelieve the credence of this witness.

6. Ext. M-2 is the letter of request by the concerned workmen for their placement in Category Job. So that they may get their annual increment after completion of one year. In the letter it was stated that it was not possible for the management representative to make measurement of the work done by them. The letter was referred to the Divisional Manager, Tisco, 6/7 Pits Jamadoba Colliery. In reply to that application the Chief Personnel Manager addressed a letter dated 29-5-79 to Surendra Rajbar and other piece rated heavy tyndals and it was stated that there were three vacancies for the time rated heavy tyndals and the applicants who qualify in the trade test were promoted as daily rated heavy tyndal. It was further stated that no vacancy of time rated heavy tyndals and so the management regretted its inability

to accede to the request of the union. As regards the payment it was stated that the concerned workmen and similar other piece rated workers are paid after proper measurement work done by them. In this way there is no denial of the fact that the piece rated workmen including the concerned workmen are earning more than the time rated heavy tyndal. A comparative chart just to show the difference in wages of both categories of the Tyndals has been marked Ext. M-4. Casually it may be mentioned that the management had replied to the ALC (C) during the course of conciliation proceeding and it has been marked Annexure II of the Conciliation file. From the annexure it is crystal clear that there were fixed No. of time rated heavy tyndal and however permanent vacancies in the time rated heavy tyndals arise the employees are selected on the merit to fill up that post. It was further stated that the concerned workmen can also be considered on merit along with others in the even of permanent vacancy in the time rated job.

7. I view of the fact I find that the concerned workmen have no claim and specially in view of the evidence of MW-1 they have been getting more than the time rated heavy tyndal and that all depend upon the quantum of work putting by them. For the reasons stated above I find no merit in the demand of the concerned workmen.

In the result, I hold that the action of the management of 6/7 Pits Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited in placing the 11 Tyndals listed in the Annexure below in piece-rated category instead of in time-rated category is justified. Consequently the concerned workmen are entitled to no relief.

B. RAM, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 1992

का.प्र. 2805.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै० बी. सी. सी. एन. को सुदामडीह शाफ्ट माईन्स के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-92 को प्राप्त हुआ था।

[संख्या एन-20012/73/89-आई.आर. (कोल-I)]

बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th October, 1992

S.O. 2805.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sudamdih Shaft Mines of M/s. BCCL and their workmen, which was received by the Central Government on 7-10-1992.

[No. L-20012/73/89-IR (C-I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 154 of 1989

PARTIES :

Employers in relation to the management of Sudamdih Shaft Mines of M/s. B.C.C. Ltd.

AND
Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri R. S. Murthy, Advocate.

For the Workmen—Shri Lalit Burman, Vice-President,
United Coal Workers' Union.

STATE : Bihar

INDUSTRY : Coal

Dated, the 29th September, 1992

AWARD

By Order No. L-20012/73/89-J.R. (Coal-I), dated, the 7th November, 1989, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Management of Sudamdih Shaft Mine of Sudamdih Area of M/s. B.C.C. Ltd. in dismissing Shri Narayan Gosai from service with effect from 3-1-87 is justified? If not, to what relief is the workman entitled?"

2. The case of the management of Sudamdih Shaft Mine of M/s. B.C.C. Ltd., as disclosed in the written statement-cum-rejoinder, details apart, is as follows :—

Sudamdih Shaft Mine previously belonged to M/s. National Coal Development Corporation Limited, a Government Company within the meaning of Section 617 of the Company's Act. The company was wholly financed by the Central Government. It was renamed as Central Coalfields Limited with effect from 1-11-1975 following the reorganisation of the coal industry in the Central Public Sector after the nationalisation of the coal mines in the country. Consequently upon nationalisation of non-coking coal mines with effect from 1-5-1973, the management of Sudamdih Shaft Mine (Sudamdih Project) was handed over by the erstwhile N.C.D.C. Ltd. to M/s. B.C.C. Ltd. The ownership of Sudamdih Project/Shaft mine was transferred to M/s. B.C.C. Ltd. by N.C.D.C. finally with effect from 1-11-1975 under the orders of the Central Government. The Certified Standing Orders (Coal Mines) of N.C.D.C. Ltd. were applicable and continued to be applicable to the workmen of Sudamdih Shaft Mine. It was reported to the management that on 30-1-87 Narayan Gosai, the concerned workman who was a piece-rated worker of the shaft mine of Sudamdih Project in connivance with some other miscreants had attempted to steal away about 35 Kgs of copper cable costing about Rs. 2500 from the precincts of the shaft mine and that he was caught red-handed by the Security Staff specially posted for curbing such thefts. On receipt of such a report, the Superintendent of Mines/Manager, shaft mine issued a Chargesheet dated 31-1-87 to the concerned workman calling for his explanation as to why disciplinary action should not be taken against him on account of attempt to commit theft which attracted Clause 17(i)(a) of the Certified Standing Orders. He was also placed under suspension on the same time. The concerned workman submitted his explanation dated 2-3-87 which was not found satisfactory. As a result the Superintendent of Mines/Manager, Sudamdih Shaft Mine ordered a detailed enquiry into the charge framed against him by his Memo dated 22-4-87 and appointed Sri A. P. Singh, Sr. Personnel Officer for holding such an enquiry with due intimation to the concerned workman. The Enquiry Officer held the domestic enquiry in conformance to the principles of natural justice. The concerned workman participated in the enquiry. He was given full opportunity

to defend himself. After conclusion of the enquiry, the Enquiry Officer submitted his report dated 7-9-87 in which he found the concerned workman guilty of the charge levelled against him. The matter was considered by the Superintendent/Manager, Shaft Mine, the Deputy Chief Mining Engineer/Project Officer, Shaft Mine and the General Manager of Sudamdih Area in which Sudamdih Project and Shaft mine fall. They accepted the findings of the Enquiry Officer and it was decided that considering the gravity of the misconduct proved against him, the Concerned workman should be dismissed. Accordingly, he was dismissed from service by letter dated 11/12-10-87 issued by the Dy. Chief Mining Engineer/Project Officer/Agent, Sudamdih Shaft Mine. It has been submitted that the action of the management in dismissing the concerned workman from service be held to be justified.

3. The case of the concerned workman, as appearing in the written statement submitted on his behalf by the sponsoring union, United Coal Workers Union, briefly stated, is as follows :

Narayan Gosai, the concerned workman, had been working as piece-rated miner in Sudamdih Shaft Mines of M/s. B.C.C. Ltd. The Superintendent of Mines, Sudamdih Shaft Mine, issued a charge-sheet dated 31-1-87 alleging that it was reported that on 30-1-87 the concerned workman in connivance with some others, attempted to steal away 31 Kgs. of copper cable from the precinct of Sudamdih Shaft Mines and was caught red-handed by the Security Staff. He was suspended with immediate effect. He was handed over to the police and was lodged in Dhanbad jail. On being released on bail on 18-2-87, he reported for duty on 19-2-87 but he was not allowed to join his duty. On receipt of a copy of the charge-sheet, he submitted his reply dated 2-3-87 denying the charges levelled against him. He stated in his explanation that while he was waiting for a vehicle after finishing his duty, he was dragged by some people to the C.I.S.F. camp where he was beaten and forced to sign some papers and was then handed over to Sudamdih Police Station at about 10 P.M. on 30-1-87. The management held domestic enquiry and the Enquiry Officer submitted his report dated 7-9-87 to the Superintendent of Mines, Sudamdih Shaft Mines. The domestic enquiry was not held fairly and properly. The finding of the Enquiry Officer holding him guilty of the charge levelled against him is totally wrong and vitiated. He was dismissed by letter dated 11/12-10-1987. The action of the management in dismissing him from service on concocted charge is neither lawful nor justified. In the circumstances, the concerned workman is entitled to be reinstated in service with full back wages.

4. In rejoinder to the written statement of the sponsoring union, the management has stated that Narayan Gosai was a piece-rated miner of Sudamdih Shaft Mine. He was caught red-handed as mentioned in the charge-sheet and the matter was reported to the police. The allegation that the domestic enquiry was not held fairly and properly and that the report of the Enquiry Officer is vitiated are not correct.

5. In rejoinder to the written statement of the management, the union has contended that the charge against the concerned workman was not proved beyond reasonable doubt and findings of the Enquiry Officer are vitiated. As a matter of fact, the entire domestic enquiry proceedings are vitiated.

6. At the instance of the management the fairness and propriety of the domestic enquiry was considered as preliminary issue. In the course of hearing on preliminary issue the management examined the Enquiry Officer as MW-1 and laid in evidence the entire domestic enquiry proceedings which were marked Exts. M-1 to M-10/6

On the other hand, the sponsoring union laid in evidence one item of document (Judgement of the Judicial Magistrate 2nd Class, Dhanbad) which was marked as Ext. W-1.

Upon hearing the parties and considering all evidence on record, it was held that the domestic enquiry was held fairly and properly. Thereafter the case was heard on merits.

7. Admittedly, Narayan Gosai, the concerned workman, was working as piece-rated miner in Sudamdih Shaft Mine on Sudamdih Project. There is no dispute that the Certified Standing Orders (Coal Mines) of N.C.D.C. was applicable to the workmen of Sudamdih Project/Colliery even after the Colliery was handed over to M/s. B.C.C. Ltd. by the erstwhile N.C.D.C.

8. The case of the management is that it was reported that on 30-1-87 the concerned workman in connivance with some other miscreants had attempted to steal away about 35 Kgs. of copper cable costing about Rs. 2,500 from the precinct of Shaft Mine and that he was caught red-handed by the Security Staff specially posted for curbing such thefts. On receipt of such report, the Supdt. of Mines/Manager, Shaft Mine, issued chargesheet dated 31-1-87 to the concerned workman calling for his explanation as to why disciplinary action should not be taken against him on account of the aforesaid attempt to commit theft which attracted Clause 17(i)(a) of the Certified Standing Orders. The explanation submitted by the concerned workman not being found satisfactory a domestic enquiry was held. It appears that the Enquiry Officer, relying upon the evidence adduced by the management and disbelieving the statement of the concerned workman and his witnesses, found the concerned workman guilty of the charge levelled against him and the appropriate authority, accepting the report of the Enquiry Officer, dismissed the concerned workman from service.

9. The substantive point of the charge-sheet issued against the concerned workman (Ext. M-1) dated 31-1-87 is reproduced hereinbelow :

"It has been reported that on 30-1-87 you in connivance with some other miscreants attempted to steal away about 31 Kgs. Copper Cable (costing about Rs. 2,500) from the precinct of the Shaft Mine but you were caught red handed by the Security Staff specially posted of curbing such theft."

The concerned workman was arraigned on a charge for having committed misconduct under Clause 17(I)(a) of Certified Standing Orders which reads as follows :

"Theft, fraud or dishonesty in connection with employer's business or property."

The concerned workman submitted his explanation to the charge-sheet which is gleaned hereinbelow (Ext. M-2) :

"In reply to your charge-sheet No. SMD. Sr. P.O. DISCTP:598 dated the 31-1-87/2.2 received by me on the 26th February 1987 (after I was released on bail from Dhanbad Dist. Jail), I have to state the following :—

That on 30-1-87 my duty hours in the Shaft Mine was from 7 A.M. to 3 P.M. and I came out of the Mine at about 3.20 P.M. and when I came out of the Mine I found the Shift Bus has already left and as such I went to take my food in the Canteen. After that I came to the Dump Hopper wherefrom I wanted to avail the Dumper Rajapur so that I could come to Ena Colliery which is near to Dhanbad.

That while I was standing for the Rajapur Dumper which was unloading at that time, all on a sudden some plain clothed people approached on the spot and dragged me to C.I.S.F. Camp where I was beaten and forced to sign on some papers. In spite of my telling them that I was a worker off duty and waiting for availing the Dumper, they did not listen to me and took me to Sudamdih P.S. at 10 P.M. The next day I was sent to Jail (Dhanbad) from where I was released on bail on 13-2-87. The next day i.e. 19-2-87 I went to Sudamdih and reported myself to duty but I was not allowed to join.

I deny all the charges brought against me and that I am innocent and as such I would request you to withdraw the charges brought against me and allow me to join to my duties."

It is essential that the charge shall contain such particulars as to the time and place of alleged offence and the persons (if any) against whom, or the things (if any) in respect of which it was committed, as are reasonably sufficient to give accused notice of the matter with which he is charged. Upon a perusal of the charge-sheet it appears that the time of the alleged occurrence has not been specified at all. A person proceeded against for misconduct is entitled to know with certainty and accuracy the exact nature of the charge brought against him. The nature of the charge includes the time and place of the alleged occurrence. Unless he has this knowledge, he would seriously prejudiced in his defence. This being the legal position, I have no hesitation to hold that omission to mention the time of occurrence in the chargesheet is a fatal omission for the management which resulted in prejudicing the concerned workman in his defence. This aspect of the matter was not considered by the Enquiry Officer at all which renders his report of enquiry all the more vulnerable.

10. The management, in its written statement, has alleged that the concerned workman in connivance with some other miscreants attempted to steal 35 Kgs. of copper cable while the charge-sheet discloses that the offence was in respect of 31 Kgs. of copper cable.

In order to constitute theft or attempt to commit theft theft five factors are essential :

- (i) Dishonest intention to take property ;
- (ii) The property must be movable ;
- (iii) It should be taken out of the possession of another person ;
- (iv) It should be taken without the consent of that person ; and
- (v) There must be moving of the property in order to accomplish the taking of it.

The materials on record do not disclose that the management of Sudamdih Shaft Mine was the owner of 31 Kgs. of copper cable. Stock Register of the Shaft Mine was not produced before the Enquiry Officer by the management to show that the management was the owner of 31 Kgs. of copper cable. The evidence on record does not also pin point the fact that the Shaft Mine was possessing this property. This aspect of the case was not also considered by the Enquiry Officer.

11. Anyway, the evidence on record discloses that on 30-1-87 a posse of security guards consisting of five security personnel including S/Shri N. Dewan, Pancham Thakur, and J. K. Mistry and two others were on patrolling duty between 5 P.M. and 8 P.M. The evidence on N. Dewan discloses that while they were on duty at about 6 P.M. they saw some materials being thrown from the Regional Stores over boundary wall to a place outside. The matter was reported to J. K. Mistry who advised them to keep quiet. About 20 to 25 minutes thereafter the concerned workman appeared and bound the material with his muffler when he was caught red-handed and taken to the Post Comandant and Sub-Inspector where his statement was taken. This, the evidence of these witnesses discloses that the occurrence took place at about 6.20 to 6.25 P.M. Pancham Thakur in his statement before the Enquiry Officer told that the material was thrown over the boundary wall of the Stores and the matter was reported to Sri Mistry who advised them to keep quiet and the concerned workman at about 5.45 P.M. appeared and attempted to take the material away but on seeing them he threw down the material and started running, but he was apprehended, brought to the canteen post and handed over to the Commandant. Thus, it is seen that there is material contradiction in the statement of these two witnesses as to the time of occurrence. While as per the statement of Sri Dewan the occurrence took place at about 6.20 to 6.25 P.M. Shri Thakur has stated that it took place at 5.45 P.M.

Then again, there is yet another material contradiction in the statement of these two witnesses. According to Shri Dewan, the concerned workman was caught red-handed when he found copper cable with his muller while Shri Inakur has stated that he was apprehended while he was fleeing away. Both the witnesses stated that the concerned workman was brought to the Police Station with the article seized. Sri Dewan stated that he did not make any statement before the police while Sri Inakur stated that they made statement before the police. These two witnesses only were examined in the domestic enquiry. The seizer list prepared by the Inspector Incharge of C.I.S.F. indicated that the article was seized in presence of J. K. Mistry and N. Dewan, Sri Mistry was not examined in domestic enquiry. When the concerned workman complained that in domestic enquiry Sri Mistry and two others were not examined by the Management, the Enquiry Officer brushed aside the complaint as irrelevant and over-ruler his contention. In my view, the Enquiry Officer was not justified in doing so; the management should have atleast examined J. K. Mistry in whose presence the article was seized.

The concerned workman stated in his explanation to the charge-sheet as well as written statement before the Enquiry Officer that on 30-1-87 his duty hours in the Shaft Mine was from 7 A.M. to 3 P.M. and he came out of the mine at about 3.20 P.M. He found that the Shift Bus had already left and he went to take food in the Canteen. Thereafter he came to Dumper Hopper in order to avail the Dumper of Rajapur so that he could come to Ena Colliery which is near Dhanbad. While he was waiting for the Dumper all on a sudden some plain clothed people appeared on the spot and dragged him to C.I.S.F. where he was beaten and forced to sign some papers. Although he told them that he was a worker waiting for availing of the Dumper they did not listen to him, took him to Sudamdih Police Station at 10 P.M. and on the next day he was sent to jail and on 18-2-87 he was released on bail and on the next day i.e. 19-2-87 he went to Sudamdih Shaft Mine in order to report for duty, but he was not allowed to join. His two witnesses, namely, Aktar Ali and Jogeswar Das saw him being pushed by 4/5 Jowans on 30-1-87 at about 3.30 to 4 P.M. The Enquiry Officer disbelieved the evidence of Aktar Ali for the simple reason that in his examination-in-chief he told that the concerned workman was being dragged towards Western side and in cross-examination he stated that he was dragged towards eastern side. I find no such statement made by him in cross-examination. The Enquiry Officer has inferred from the evidence of Jogeswar Das that since the witness knew later on that C.I.S.F. personnels dragged the concerned workman for the offence of theft that itself proved the charge against the concerned workman. In my view, this inference is not only funny but preposterous. The witness relayed the fact which he heard from others and the fact was that the C.I.S.F. jowans dragged the concerned workman on the allegation of theft. That does not prove that the witness has stated anything in favour of the charge levelled against the concerned workman. The Enquiry Officer has further stated in his report that "important thing for which the concerned workman was charge-sheeted i.e. attempt of theft of 31 kgs. of copper cable from the precinct of the Shaft Mine for which he was caught red handed by Security Staff and sent to jail has not been contradicted in his explanation to the charge-sheet. He is quite silent about it. This also prove that the concerned workman is guilty of the charge levelled against him." This finding of the Enquiry Officer is entirely baseless. In his explanation to the chargesheet the concerned workman has complained that while he was standing for availing Rajapur Dumper, all on a sudden some plain clothed people appeared on the spot, dragged him to C.I.S.F. beat him up, forced him to sign some papers and in spite of his protest that he was a worker of Shaft Mine, he was taken to the Police Station. This statement of the concerned workman does not at all indicate that he was silent about the charge levelled against him. His defence was that he was falsely implicated in the case. Anyway, the management lodged an F.I.R. in the P.S. and the concerned workman was arrested under Section 414 of I.P.C. before Judicial Magistrate, 2nd Class, Dhanbad. He was acquitted of the charge by the Judicial Magistrate (Ext. W-1).

12. Considering all these facts and circumstances, I have no hesitation to hold that the charge against the concerned

workman has not been proved at all and the Enquiry Officer was not justified in holding him guilty of the charge.

13. Accordingly, the award is rendered—

This action of the management of Sudamdih Shaft Mine of Sudamdih Area of M/s. B.C.C. Ltd. in dismissing Narayan Gosai from service with effect from 11/12-10-87 is not justified. The report of the Enquiry Officer holding the concerned workman guilty of the charge levelled against the concerned workman is hereby set aside. The management is hereby directed to reinstate the concerned workman in service with effect from the date of his dismissal from service and pay him full back wages with continuity of service within one month from the date of publication of the award. The concerned workman is directed to report for duty within the time stipulated.

In the circumstances of the case, I award no cost. This is my award.

S. K. MITRA, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 1992

का.प्र. 2806—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. बी. सी. सी. एल. की मुनीडीह प्रोजेक्ट के प्रबंध-सद्व के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं-2), धनबाद के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-92 को प्राप्त हुआ था।

[संख्या एल-20012/137/87-डी-3(ए)]

बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th October, 1992

S.O. 2806.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Mgt. of Munidih Project of M/s. B.C.C.L., and their workmen, which was received by the Central Government on 7-10-92.

[No. L-20012/137/87-D.III(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT

Shri B. Ram,

Presiding Officer

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 307 of 1987

PARTIES :

Employers in relation to the management of Munidih Project of M/s. Bharat Coking Coal Ltd., Dhanbad and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri D. Mukherjee, Secy., Bihar Colliery Kamgar Union.

On behalf of the employers.—Shri B. Joshi, Advocate.
STATE : Bihar. INDUSTRY : Coal.
Dated, Dhanbad, the 28th September, 1992

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (137)/87.D.III(A), dated, the 15th December, 1987.

SCHEDULE

"Whether the action of the management of Moonidih Area, Moonidih of M/s. Bharat Coking Coal Ltd., Dhanbad in dismissing Shri Puttar Mahato, PRM T. No. 5815 from the service of the company w.e.f. 24-12-1986 is justified? If not, to what relief is the workman entitled?"

2. One Shri Puttar Mahato the concerned workman was in employment of the company and he was dismissed with effect from 24-12-86 on account of certain misconduct. Now he wants his reinstatement with full back wages for the ground mentioned in the W.S.

3. He was issued chargesheet dt. 3-8-84 by the management alleging that on 19-8-84 at about 12.45 P.M. along with others assaulted Shri K. P. Singh, Sr. Mining Engineer, Incharge of Aralgaria Stabilisation works with axe and lathi causing fracture to his left hand index finger. It was also alleged that they dragged Shri K. P. Singh to their village Dhobani Mouza with intention to kill who could be subsequently rescued by the Police. The concerned workman was also stated to have ruled abuses and pelted stones upon the officer of Bhagaband colliery who all were helping Shri K. P. Singh in supervising the water drainage work at Dhobani Mouza near Aralgaria. That was the place where water from Moonidih Putki and Aralgaria accumulated and flowing inside the mine posing dangerous inundation to the underground mine of Bhagaband colliery.

4. The concerned workman stated that the management of Moonidih Colliery had no authority to issue chargesheet against him. Aralgaria Project has got no certified standing orders of its own and the Model standing Order is applicable to that Project. The concerned workman replied to the chargesheet denying each and every allegation but the management being not satisfied with the reply, ordered for departmental enquiry which apart from perfunctory in nature was irregular and invalid. He raised industrial dispute but in the meantime the management dismissed him on 24-12-86. The dismissal according to the concerned workman was illegal, unjustified and against the principles of natural justice.

5. The management on the other hand stated that the incident took place when Shri K. P. Singh was carrying on his duty with the help and assistance of Shri B. S. Ram, Safety Officer, Shri B. N. Jha, Dy. Surveyor and Shri Bundeswar Mahato Mining Sirdar of Bhagaband colliery in connection with drainage of surface water which was posing danger of inundation to the underground mine of Bhagaband colliery. It was stated that the concerned workman and Shri Govind Mahato attacked Shri K. P. Singh with axe and lathi and they also hurled abuse upon him. Shri K. P. Singh became unconscious on account of assault and he was dragged to village Dhobani Mouza with the intention that he be killed. It was stated further Shri B. S. Ram and others fled for their safety and gave information to the police. The Police came and rescued Shri K. P. Singh and arrested the concerned workman.

6. The concerned workman was issued chargesheet by the Supdt. of Mines of Moonidih Project who was also the Manager under the Mines Act, 1952. The concerned workman submitted reply which was not found satisfactory and domestic enquiry was held. Ultimately, he was dismissed. However, we find that the domestic enquiry was held to be unfair and not in accordance with the principles of natural justice and the management was allowed to prove the charges by adducing fresh evidence before this Court.

7. The main point for consideration is as to whether the concerned workman indulged in the incident and he abused and caused injury in Shri K. P. Singh in the manner as alleged and if so whether the dismissal was justified?

8. According to the management drain cutting work was going on under the control and supervision of Shri K. P. Singh at village Dhobani adjoining Aralgaria to prevent flow of water to underground mine of Bhagaband colliery. There is evidence that the work was being done by the labourers of one Shri Kamra Pandey the contractor. Shri K. P. Singh stated that the work was being done within the colliery area. At first we will decide as to whether this work was being done at the colliery premises or beyond that. Shri Singh while deposing as MW-4 stated that the disputed land is situated in Dhobani Mouza. As stated the concerned workman was asserting his claim over the P. O. land. Shri Puttar Mahato has been examined as MW-1 and he was not asserted his own claim over the land. In evidence he simply stated that owner of the land of village Dhobani are the residents of the village. Indirectly he denied the title and possession of the BCCL over the land. In the FIR (M-2) the concerned workman was stated to have abused and told Shri K. P. Singh and others that they were draining out water from their land. In totality the concerned workman and the villagers were putting their claim over the P.O. land. But mere asserting claim unsupported by any reliable documentary evidence will amount to mere pretence of claim. No doubt it was for the management to prove their title and possession of the land because the work of the company was going on over the land, but at the same time the concerned workman was also expected to have shown even a prima facie proof of possession but we find that not a single bit of paper has been filed from the side of the workmen and that being the position there was no question of any right of private defence. On the other hand we find that the management filed certain documents showing that the lands were acquired by the Government and in this connection Ext. M-11 can be seen. This is the letter concerning their acquisition of the land which has been branded by the workmen as forced and fabricated. Admittedly, these documents along with its enclosures were not filed before the Enquiry Officer, nor it was shown to the police during the course of investigation. Be that as it may, prima facie I find no reason to disbelieve it just to prove the possession of the management over the land.

9. As stated above it is clear that the management was getting the work done at his own land. Drain cutting job was being done under the supervision of Shri K. P. Singh, Sr. Mining Engineer, Bhagaband Colliery. Shri Singh stated that the work was being done in the colliery area. The work in itself was very important and closely connected with the mine for the water of the different colliery including that of Moonidih colliery was channelised and diverted to different direction to save inundation of underground mine of Bhagaband Colliery. We find that the work was closely connected with the affairs of mine and it was being done at about 12.45 P.M. during the office hour. This means that Shri K. P. Singh and another officials assisting him were on official duty well within the premises of the colliery. It is said that at that point of time the concerned workman and others came abusing and assaulted Shri K. P. Singh causing injuries to his various part of the body. The concerned workman was charged for riotous behaviour and also for the stoppage of drainage work on the company's land with intention to drown Bhagaband Colliery. As alleged, the above act of the concerned workman amounted to misconduct under the certified standing orders which reads as follows:—

"17(i)(e) : Drunkenness, fighting or riotous, disorderly or indecent behaviour while on duty at the place of work.

17(i)(i) : Causing wilful damage to work in progress or to property of the employer.

17(i)(r) : Threatening, abusing or assaulting any superior or co-worker."

10. The concerned workman was definitely not on duty but Shri K. P. Singh and other officials were on duty working in the colliery premises or in the vicinity of the premises.

The learned counsel for the workmen at this stage submitted that the management has got no extra territorial jurisdiction and he cannot be a guru or mentor of his workmen for their regulated cultural advancement. Reliance was placed upon the authority reported in 1983 Supreme Court Lab I.C. Vol. 2 page 1909 wherein their Lordships were pleased to hold as follows :—

"To enable an employer to peacefully carry on his industrial activity, the Act confers powers on him to prescribe conditions of service including enumerating acts of misconduct when committed within the premises of the establishment. The employer has hardly any extra territorial jurisdiction. He is not the custodian of general law and order situation nor the Guru or mentor of his workmen for their well regulated cultural advancement. If the power to regulate the behaviour of the workmen outside the duty hours and at any place wherever they may be was conferred upon the employer, contract of service may be reduced to contract of slavery. The employer is entitled to prescribe conditions of service more or less specifying the acts of misconduct to be enforced within the premises where the workmen gather together for rendering service. The employer has both power and jurisdiction to regulate the behaviour of workmen within the premises of the establishment, for peacefully carrying the industrial activity in the vicinity of the establishment."

11. I have already stated that the work was going on at the place which was in the premises of the colliery and it was well within the vicinity of Bhagaband Colliery. The concerned workman was a miner/loader of Moonidih Colliery which was just in the vicinity of Bhagaband Colliery. The area of the coalfield for the purpose of any action against the delinquent employee cannot be confined to water tight compartment. According to Puttar Mahato the concerned workman Moonidih Colliery was at a distance of 4 K.M. from Bhagaband Colliery. Again he stated that Dhobani Mouza was at a distance of 2 K.M. from Bhagaband Colliery. This will be suggestive of the fact that the distance between the two collieries from each other was very short and everything happened within the premises of the colliery. Though the concerned workman was not on duty but he as alleged obstructed the work of the officers on duty within colliery premises as such the act will embrace the ingredients of misconduct. The employer cannot be guru or mentor for any private work of an employee but he will be definitely a master for any obstruction or riotous behaviour being done at the colliery premises irrespective of the fact that the employee was on duty or not.

12. Now let us see whether the concerned workman had ever shown any riotous and fighting behaviour. He was stated to have assaulted Shri K. P. Singh but this aspect of the matter has been negated by Shri B. S. Ram. MW-1, the own witness of the management who stated before this Tribunal on oath that Puttar Mahato was simply abusing. He denied any assault on Shri K. P. Singh by the concerned workman. Ext. M-10 to M-10/3 are the injury reports and the medical certificate granted by one Dr. Pandit. Three X-ray plates are the material Exts which have been marked I, II and III showing that Shri Singh had sustained fracture on index left hand fingers. The learned counsel for the workmen has challenged all these certificates on the ground that they were never produced either before the Enquiry Officer or before the Investigating Officer during the course of investigation. The learned counsel seems to be correct in his submission that in the event of medical report being challenged the management should have examined the doctor concerned. Shri K. P. Singh himself stated that he was treated in Civil Hospital Dhanbad also but no such paper has been filed. In the situation noted above it is true that these injury reports and medical certificate loses much of its force and that being the position it is very difficult to prove that the concerned workman ever exhibited his riotous and fighting behaviour.

13. However, we find that there were other charges also stating that he threatened, abused and assaulted his superior officer. As regards the assault is concerned it has got to be read and understood in its wider connotation. It is not necessary that there must be some physical injury. There was allegation that Shri K. P. Singh was dragged to village Dho-

bani with the intention to be killed but Shri K. P. Singh himself stated that he was not assaulted after his arrest and taking away by the villagers. This is suggestive of the fact that the concerned workman and another had never intended to kill Shri Singh. But mere dragging will amount to assault. This story of dragging by the concerned workman has been stated by all the witnesses including Shri B. S. Ram. This witness also stated that the concerned workman hurled abuses upon Shri K. P. Singh and others. On the basis of the discussion made above I am to hold the view that the concerned workman was guilty of misconduct under clauses 7(i) and (r) of the Certified Standing Orders.

14. It was lastly contended that a police case was also registered for the same occurrence but the charge cannot be proved and the accused concerned workman was acquitted. Shri K. P. Singh while deposing as witness stated that he was not examined as witness before the Criminal Court. Definitely he being the informant of the case was very important witness in the criminal trial but his non-examination will simply suggest that the criminal trial was not fully contested by the State and for that the management cannot be held responsible. Certainly an order of the Criminal Court has to be respected and honoured just to maintain its dignity and also to maintain faith of the litigant public provided the accused is either convicted or acquitted after a full dress trial. Here in the instant case we find that the informant was not examined and therefore it cannot be said that the concerned workman got clean acquittal after full dress trial.

15. I have held the concerned workman guilty of misconduct under clause 17(i)(r) of the Certified Standing Orders which was an act of abusing and assaulting. I have explained that the management failed to prove murderous assault on the person of Shri K. P. Singh but the charge of simple assault has been proved simply because he was dragged by the villagers including the concerned workman to village Dhobani Mouza. But the misconduct as proved against the concerned workman was not so serious as to inflict the punishment of dismissal against the concerned workman. I may say it was shockingly disproportionate to the misconduct committed by the concerned workman. In the circumstances, I would set aside the order of dismissal and the ends of justice can be met by reinstating the concerned workman without any back wages and one permanent stoppage of increment. As regards increment is concerned his increment due in future will be permanently withheld. The management is thus directed to reinstate the concerned workman within one month from the date of publication of the Award with continuity of his service and stoppage of increment as indicated above.

B. RAM, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 1992

का.प्र. 2807.—औद्योगिक विवाद अधिनियम, 1947 (1947 क 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. बी. सी. सी. एम. की बंसदियोपुर केलियरी के प्रबंधन के संबंध निपोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), घनवाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-92 को प्राप्त हुआ था।

[संख्या एल-20012/90/86-डी-3(ए)]

बी. के. वेणुगोपालन, डैस्क अधिकारी

New Delhi, the 9th October, 1992

S.O. 2807.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bansdeopur Colliery of M/s. BCCI.

and their workmen, which was received by the Central Government on 8th October, 1992.

[No. L-20012/90/86-D.III(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 274 of 1986

PARTIES :

Employers in relation to the management of Bansdeopur Colliery of M/s. Bharat Coking Coal Limited.

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—Shri S. Bose, Secretary R.C.M.S.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the September, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/90/86-D. III(A), dated, the 11th July, 1986

SCHEDULE

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that Shri Chandrika Nonia, Shovel Operator should be given Excavation Grade-'B' by the management of Koyla Bhawan of M/s. Bharat Coking Coal Ltd., P.O. Koyla Nagar, Dhanbad with effect from 1st April, 1983 is justified? If so, to what relief is the concerned workman entitled?"

2. Soon after the receipt of the order of reference notices were sent to the parties. Both the parties appeared but did not file W.S. etc. Subsequently, when the case was fixed both the parties appeared before me and filed a compromise petition. I heard both the parties on the said petition of compromise and do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the said petition of compromise and pass an Award in terms thereof which forms part of the Award as Annexure.

B. RAM, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, DHANBAD

Reference Case No. 274 of 1986

Employers in relation to the Management of Sijua Area of M/s. Bharat Coking Coal Limited,

AND

Their Workman.

The humble petition of compromise on behalf of the parties most respectfully sheweth :—

1. That, the Central Government by a notification has referred the instant industrial dispute for an adjudication under 2612 GI/92—4

Section 10 of Industrial Dispute Act, 1947 to this Hon'ble Tribunal. The schedule of the reference is reproduced below.

SCHEDULE

"Whether the demand of RCMS that Shri Chandrika Nonia, Shovel Operator should be given Excavation Grade 'B' by the management of Koyla Bhawan of M/s. Bharat Coking Coal Ltd., P.O. Koyla Nagar, Dhanbad with effect from 1st April, 1983 is justified? If so, to what relief is the concerned workman entitled?"

2. That, the parties discussed the dispute outside the Court and have settled the said dispute on the following terms and condition.

TERMS AND CONDITIONS

1. That, Shri Chandrika Nonia, Shovel Operator would be placed in Excavation Grade 'C' w.e.f. the date of reference i.e. 1st day of July, 1986.

2. That, it was further agreed that Shri Chandrika Nonia will be placed in Excavation Grade 'B' w.e.f. 1st July, 1991.

3. That, it was agreed that Central Government Industrial Tribunal No. II, Dhanbad will be approached to record the above compromise and give a consent Award.

4. That, this settlement resolves all the dispute between the parties and the workman concerned Shri Chandrika Nonia shall have no claim whatsoever.

It is, therefore, prayed that your Honour may be graciously pleased to accept the above compromise and pass an Award in terms of settlement.

And for this act of kindness the parties shall ever pray.
Representing Union

1. Sd/-

2. Sd/-

Signatures illegible

3. Sd/-

Representing Management

1. Sd/-

2. Sd/-

Signatures illegible

3. Sd/-

Witness :

1. Sd/-

Signatures illegible

2. Sd/-

Sd/-
Advocate

सई दिल्ली, 9 अक्टूबर, 1992

का. प्र. 2808.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भे. बी.सी.सी. एल. की सेक्टर बंसजोरा कोलियरी का सिजूआ एरिया नं.—5 के प्रबन्धन के संबद्ध शिपों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (नं. 2), धनबाद के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-92 को प्राप्त हुआ था।

[संख्या एल. 21012/181/86 डी—4(बी)]

बी के वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th October, 1992

S.O. 2808.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure

in the Industrial Dispute between the employers in relation to the management of Sendra Bansjora Colliery of Sijua, Area No. V of M/s. BCCL and their workmen, which was received by the Central Government on 8th October, 1992.

[No. L-24012(181)/86-D.IV(B)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 168 of 1987

PARTIES :

Employers in relation to the management of Sendra Bansjora Colliery of Sijua Area No. V of M/s. Bharat Coking Coal Ltd.

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri G. Prasad, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 28th September, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(181)/86-D.IV(B), dated, the 17th/24th June, 1987.

SCHEDULE

"Whether the action of the Management of Sendra Bansjora Colliery of Sijua Area No. V of M/s. BCCL, P.O. Sijua, District Dhanbad in not regularising S/Shri Suresh Routh, Balkishua Hari, Chatua Harin, Gopal Hari, Mohan Hari, Smt. Jashoda Kamin, Smt. Nomita Harin as Sweepers is justified? If not, to what relief the workmen concerned are entitled?"

2. In this case none of the parties filed their respective W.S. documents etc. Subsequently, when the case was fixed both the parties appeared before me and filed a petition of compromise. I heard both the parties on the said petition of compromise and do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the said petition of compromise and pass an Award in terms thereof which forms part of the Award as Annexure

B. RAM, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, DHANBAD

Reference Case No. 168 of 1987

Employers in relation to the management of Sendra Bansjora Colliery, Sijua Area of M/s. Bharat Coking Coal Limited,

AND

Their Workmen.

The humble petition of compromise on behalf of the parties most respectfully sheweth :—

1. That the Central Government by a notification has referred the instant industrial dispute for an adjudication under Section 10 of the Industrial Dispute Act, 1947 to this Hon'ble Tribunal. The schedule of reference is reproduced below :

SCHEDULE

"Whether the action of the management of Sendra Bansjora Colliery of Sijua Area No. V of M/s. BCCL P.O. Sijua, District Dhanbad in not regularising S/Shri Suresh Raut, Balkishore Hari, Chautha Harin, Gopal Hari, Mohan Hari, Smt. Jashoda Kamin, Smt. Nomita Harin as Sweepers is justified? If not, to what relief the workmen concerned are entitled?"

2. That, the parties discussed the dispute outside the Court and have settled the said dispute on the following terms and conditions.

TERMS AND CONDITIONS

1. That, it is agreed that there is no subsisting dispute requiring adjudication by the Hon'ble Tribunal as because S/Shri Suresh Raut and six others concerned workmen have already been regularised as Sweeper w.e.f. 7th March, 1990 at Sendra Bansjora Colliery which was accepted by the trade union representative.

2. That, this settlement resolves all the disputes between the parties and the workmen concerned shall have no claim whatsoever.

3. That, it was also agreed that seven copies of this settlement will be filed before the Hon'ble Tribunal and the Hon'ble Tribunal, may be requested to pass a 'No Dispute Award' in terms of the settlement.

4. That, Rs. 500 (Rupees Five Hundred) only as cost to be paid to the Union.

It is, therefore, prayed that your Honour may be graciously pleased to accept the settlement and pass an Award in Terms of the Settlement.

And for this act of kindness the parties shall ever pray.

Representing Employers : Representing Workmen :

1. Sd/- (Illegible)	1. Sd/- (Illegible)
2. Sd/- (Illegible)	2. Sd/- (Illegible)
3. Sd/- (Illegible)	3. Sd/- (Illegible)

WITNESSES :

1. Sd/- (Illegible)
2. Sd/- (Illegible)

Sd/ Illegible)
ADVOCATE

नई दिल्ली, 9 अक्टूबर, 1992

का.आ. 2809.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. की लोहापती कोलियरी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं-2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-92 को प्राप्त हुआ था।

[संख्या एल-20012/174/90-आई आर (कोल-I)]

बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th October, 1992

S.O. 2809.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lohapatty Colliery of M/s. BCCL and their workmen, which was received by the Central Government on 9th October, 1992.

[No. L-20012/174/90-IR (Coal-I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.
In the matter of an industrial dispute under Section 10(1)(d)
of the I.D. Act, 1947
Reference No. 12 of 1991

PARTIES :

Employers in relation to the management of Lohapatty Colliery of M/s. Bharat Coking Coal Ltd.

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—Shri B. Mohanty, Area Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar. INDUSTRY : Coal.
Dhanbad, the 28th September, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(174)/90-I.R. Coal-I dated, the 11th December, 1990.

SCHEDULE

"Whether the management of Lohapatty Colliery in Mahuda Area No. II of B.C.C. Ltd. is justified in not regularising the workman Shri Muchi Ram Mahato underground Munshi in Clerical Gr. III with all attendant benefit w.e.f. December, 1986 as per NCWA III & IV? If not, to what relief is he entitled?"

2. In this case none of the parties filed their respective W.S. Thereafter the case proceeded along its course. Subsequently when the case was fixed both the parties appeared before me and filed a petition of compromise under their signature. I heard both the parties on the said petition of compromise and do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the said petition of compromise and pass an Award in terms thereof which forms part of the Award as Annexure.

B. RAM, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

Reference 12/91

PARTIES :

Employers in relation to the management of Lohapatty Colliery of M/s. BCCL, Mohuda Area,

AND

Their workman (Muchi Ram Mahato).

PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference most respectfully sheweth :—

1. That the above dispute has been amicably settled between the parties on the following terms :—

TERMS OF SETTLEMENT

(a) That Sri Muchi Ram Mahato underground Munshi Lohapatty Colliery will be placed in Clerical Grade-II w.e.f. 1st January, 1991.

(b) That all the benefit arising out of his placement will be given to him from 1st January, 1991.

2. That in view of settlement there remains nothing to be adjudicated.

Under the circumstances stated above, the Hon'ble Tribunal will be graciously pleased to accept the settlement as fair and proper and be pleased to pass an Award in terms of the settlement.

For workman :

Sd/-

(B. MOHANTHY)

Area Secy. BCKU.

For Employer

Sd/-

M. M. BHATTACHARYA)

General Manager, BCCL,

Mohuda Area.

Sd/-

(A. K. RAO)

Dy. Chief Pers. Manager.

BCCL, Mohuda Area.

Sd/-

(Advocate)

नई दिल्ली, 9 अक्टूबर, 1992

का.आ. 2810.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय

सरकार, मै. बी. सी. सी. एल. की लोहापत्ती कोलियरी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-92 को प्राप्त हुआ था।

[संख्या एल-20012/172/90आईआर (कोल-I)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th October, 1992

S.O. 2810.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lohapatty Colliery of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 8th October, 1992.

[No. L-20012/172/90-IR (Coal-I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 11 OF 1991

PARTIES :

Employers in relation to the management of Lohapatty Colliery of M/s. B.C.C.L.

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—Shri B. Mohanty, Area Secretary, B.C.K.U.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 28th September, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (172)/90-I.R. (Coal-I), dated the 11th December, 1990.

SCHEDULE

"Whether the Management is justified in not regularising Shri Sukur Mia of Lohapatty Colliery in the post of Tugger Khalasi? If not, to what relief is he entitled?"

2. In this case none of the parties filed their respective W.S. documents etc. Subsequently when the case was fixed both the parties appeared before me and filed a Joint Compromise Petition under their signature. I heard both the parties

on the said petition of compromise and do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly, I accept the said petition of compromise and pass an Award in terms thereof, which forms part of the Award as annexure.

B. RAM, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

Reference 11/91

PARTIES :

Employers in relation to the management of Lohapatty Colliery of M/s. Bharat Coking Coal Ltd., Mohuda Area.

AND

Their workman (Sukur Md. Mia).

JOINT COMPROMISE PETITION OF EMPLOYERS AND

WORKMAN

The above mentioned employers and the workman/sponsoring Union most respectfully beg to submit jointly as follows :—

1. That the dispute covered by the above reference has been jointly negotiated between the employers and the sponsoring union with a view to arriving at an amicable settlement.

2. That as a result of such mutual negotiation the parties have agreed to settle the dispute, on the following terms and conditions as an overall basis :—

(a) It is agreed that Sri Sukur Md. Mia working as Tugger Khalasi will be regularised as Tugger Khalasi and placed in appropriate category/post on the capacity of Tugger Khalasi in Cat. III w.e.f. 1st August, 1990. His services however, will be utilised either at Lohapatty Colliery or in any other Colliery of Mohuda Area.

(b) It is further agreed that this is an overall settlement and full and final of all the charges of concerned workman and the sponsoring union arising out of the above reference.

3. That the employers and workman/sponsoring union hereby declared and confirmed that they consider the above terms of settlement to be fair, just and reasonable to both the parties.

In view of the above, both the parties jointly pray that the Hon'ble Tribunal may be pleased to accept this joint compromise petition and give an Award in terms of settlement thereof and dispose of the above reference.

For Workman :

For Employer

Sd/-

Sd/-

(B. MOHANTHY)

(M. M. BHATTACHARYA)

Area Secy. BCKU.

General Manager, BCCL,

Mohuda Area.

Sd/-

STATE : Bihar.

INDUSTRY : Coal.

(A. K. RAO)

Dy. Chief Pers. Manager,
Mohuda Area.

Dhanbad, the 28th September, 1992

AWARD

Sd/-
B. Joshi
(Advocate)

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(210)/86-D.IV(B), dated, the 3rd July, 1987.

नई दिल्ली, 9 अक्टूबर, 1992

SCHEDULE

का. आ. 2811.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार, सी. सी. एल. की गोविन्दपुर प्रोजेक्ट के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-92 को प्राप्त हुआ था।

"Whether the action of the management of Govindpur Project of C.C. Ltd., P.O. Bokaro Thermal, District Giridih in denying protection of wages to S/Shri Bhim Singh and 71 others (as per Annexure-A) after these workmen were deputed from piece-rated jobs to time-rated jobs is legal and justified? If not, to what relief the workmen are entitled?"

2. In this case both the parties appeared and filed their respective W.S. etc. Thereafter the case proceeded along its course. Subsequently at the stage of oral evidence, both the parties appeared before me and filed a Joint Compromise petition under their signature. I heard both the parties on the said petition of compromise and do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the said petition of compromise and pass an Award in terms thereof which forms part of the Award as Annexure.

[गोव्या एल-24012(210)/86-डी-IV(बी)]

बी.के. वणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th October, 1992

B. RAM, Presiding Officer

S.O. 2811.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Govindpur Project of C.C.L. and their workmen, which was received by the Central Government on 8th October, 1992.

[No. L-24012(210)/86-D.IV(B)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, DHANBAD

IN THE MATTER OF REFERENCE NO. 209/87

PARTIES :

Employers in relation to the Management of Govindpur Project of Central Coalfields Ltd., P.O. Bokaro Thermal, District : Giridih.

AND

Their Workmen.

JOINT COMPROMISE PETITION OF THE EMPLOYERS
AND THE WORKMEN

The above mentioned Employers and the workmen most respectfully beg to submit as follows :—

(1) That the Dispute covered by the above Reference, was mutually negotiated between the Management and the sponsoring Union with a view to arriving at an amicable and mutually acceptable settlement in the light of the negotiations and agreement reached with the sponsoring Union in connection with such cases in general in the Central Coalfields Ltd.

(2) That as a result of such negotiations, the Employers and the Sponsoring Union have mutually agreed to settle the Dispute covered by the above Reference on the following terms and conditions :—

(a) It is agreed that the P. R. Group wage including SPRA if paid before 1-1-1986 to Sri Bhim Singh and others who were Piece Rated Workers, will be protected in the Daily Rated Category in which they were placed from the date and in daily rated category indicated in the annexed statement.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d)

of the I.D. Act, 1947

REFERENCE NO. 209 OF 1987

PARTIES :

Employers in relation to the management of Govindpur Project of Central Coalfields Limited.

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—Shri B. Joshi, Advocate.

On behalf of the employers—Shri R. S. Murthy, Advocate.

(b) It is agreed that after fixing the basic pay of the 72 workmen concerned as indicated in clause (a) above, their basic pay in the relevant daily rated pay scale will be determined by granting annual increments and fixation under NCWA-IV as on 1-1-1990, and they will be deemed to have been regularised in such daily rated category/pay scale indicated against each in the annexure hereto w.e.f. 1-1-1990.

(c) It is agreed that consequent to the fixation of pay w.e.f. 1-1-1990 as per clause (a) and (b) above, the workmen concerned will be paid arrears from 1-1-1990 till now by granting them annual increments and they will continue subsequently in such pay scale and with such fixation of pay and consequential benefits of annual increments and allowance as per N.C.W.A. IV.

(d) It is agreed that the arrears as referred to in clause (c) above will be paid by the Management to the workmen concerned within three months from the date of acceptance of this Joint Compromise Petition by this Hon'ble Tribunal.

(e) It is agreed that this is an overall settlement in full and final settlement of all the claims of the Sponsoring Union and the workmen concerned arising out of the above Reference.

(3) That the Employers and the Sponsoring Union hereby confirm and declare that they consider that the aforesaid terms and settlements are just fair and reasonable to both the parties.

In view of the above, the Employers and the Sponsoring Union jointly pray that the Hon'ble Tribunal may be pleased to accept this Joint Compromise Petition and give an Award in terms thereof and dispose of the Reference accordingly.

Sd/-
A. K. SINHA, General Manager,
Kathara Area, Central Coalfields
Ltd., for and on behalf of Employers.

(SHAFIQUE KHAN
General Secretary,
United Coal Workers' Union
for and on behalf of workmen.

R. N. PANDEY, Dy. Chief Personnel
Manager, Kathara Area,
Central Coalfields Ltd., for and
on behalf of Employers.

RAL. S. MURTHY, Advocate,
Dhanbad for Employers.

Dated : 20-5-1992.

Annexure to Joint Compromise petition reached between the Management of Govindpur Project of Kathara Area, central Coalfields Ltd. and the United Coal Workers Union.

Sl. No.	Name of Piece rated workman	Date of Placement in daily rated category	Daily rated category in which he was placed
1	2	3	4
1.	Sri Chhakan Prajapati	1-1-86	Trammer Cat. III
2.	Sri Jamuna Manto	1-1-86	Trammer Cat. III
3.	Sri Latan Mahto	1-1-86	Trammer Cat. III
4.	Sri Kartik Mahto	1-1-86	Tammer Cat. III
5.	Sri Sudarshan Mahto	1-1-86	Tammer Cat. III
6.	Sri Roshan Mahto	1-1-86	Trammer Cat. III
7.	Sri Dashrath Ravidas	1-1-86	Trammer Cat. III
8.	Sri Sheokumar Ravidas	1-1-86	Trammer Cat. III
9.	Sri Nirmal Mahto	1-1-86	Trammer Cat. III
10.	Sri Nilkanth Mahto	1-1-86	Trammer Cat. III
11.	Sri Lalu Prajapati	1-1-86	Trammer Cat. III
12.	Sri Timan Mahto	1-1-86	Trammer Cat. III
13.	Sri Gujra Turi	1-1-86	Trammer Cat. III
14.	Sri Bulash Mahto	1-1-86	Timber Helper Cat. II
15.	Sri Khedan Rajak	1-1-86	Timber Helper Cat. II
16.	Sri Lal Mohan Mahto	1-1-86	Timber Helper Cat. II

1	2	3	4
17	Sri Banwari Mahto	1-1-86	Genl. Mazdoor Cat. I
18.	Sri Dilchand Mahto	1-1-86	Genl. Mazdoor Cat. I
19.	Sri Wakil Mahto	1-1-86	Genl. Mazdoor Cat. I
20.	Sri Gobardhan Gope	1-1-86	Genl. Mazdoor Cat. I
21.	Sri Rohan Lal Mahto	-1-186	Fan Khalasi Cat. II
22.	Sri Kujj Lal Mahto	1-1-86	Fan Khalasi Cat. II
23.	Sri Nilkanth Mahto	1-1-86	Genl. Mazdoor Cat. I
24.	Sri Khaspat Mahto	1-1-86	Genl. Mazdoor Cat. I
25.	Sri Rameshwar Rajak	1-1-86	Genl. Mazdoor Cat. I
26.	Sri Nageshwar Rajak	1-1-86	Genl. Mazdoor Cat. I
27.	Sri Roshan Lal Mahto	1-1-86	Genl. Mazdoor Cat. I
28.	Sri Jodhan Kumhar	1-1-86	Genl. Mazdoor Cat. I
29.	Sri Daleshwar Mahto	1-1-86	Mech. Helper Cat. I
30.	Sri Janki Mahto	1-1-86	Elec. Helper Cat. I
31.	Sri Roshan Mahto	1-1-86	Driller Cat. IV
32.	Sri Manger Mahto	1-1-86	Driller Cat. IV
33.	Sri Bhim Singh	1-1-86	Driller Cat. IV
34.	Sri Basu Gope	1-1-86	Driller Cat. IV
35.	Sri Chedi Mahto	1-1-86	S.F. Mazdoor Cat. II
36.	Sri Nagendra Rajak	1-1-86	S.F. Mazdoor Cat. II
37.	Sri Khiru Mahto	1-1-86	S.F. Mazdoor Cat. II
38.	Sri Kartic Prajapati	1-1-86	S.F. Mazdoor Cat. II
39.	Sri Nakul Prajapati	1-1-86	S.F. Mazoor Cat. II
40.	Sri Raghunath Kumar	1-1-86	S.F. Mazdoor Cat. II
41.	Sri Budhan Mahto	1-1-86	S.F. Mazdoor Cat. II
42.	Sri Budhram Mahto	1-1-86	Trammer Cat. III
43.	Sri Dakhan Mahto	1-1-86	Trammer Cat. III
44.	Sri Ghanshyam Mahto	1-1-86	Trammer Cat. III
45.	Sri Khaita Mahto	1-1-86	Trammer Cat. III
46.	Sri Kanahai Mahto	1-1-86	Trammer Cat. III
47.	Sri Raghu Mahto	1-1-86	Pump Khalasi Cat. II
48.	Sri Bhushan Mahto	1-1-86	Pump Khalasi Cat. II
49.	Sri Girdhari Mahto	1-1-86	Pump Khalasi Cat. II
50.	Sri Dhani Ram Mahto	1-1-86	Pump Khalasi Cat. II
51.	Sri Hari Lal Mahto	1-1-86	Pump Khalasi Cat. II
52.	Sri Puran Mahto	1-1-86	Pump Khalasi Cat. II
53.	Sri Teklal Prajapati	1-1-86	Pump Khalasi Cat. II
54.	Sri Kauleshwar Rajak	1-1-86	Pump Khalasi Cat. II

1	2	3	4
55. Sri Nijamuddin		1-1-86	Mech. Helper Cat. I
56. Sri Umashankar Gope		1-1-86	Genl. Mazdoor Cat. I
57. Md. Mobin Ansari		1-1-86	Genl. Mazdoor Cat. I
58. Sri Dhananjoy Rajak		1-1-86	Genl. Mazdoor Cat. I
59. Sri Basudeo Mahto		1-1-86	Genl. Mazdoor Cat. I
60. Sri Jailal Mahto		1-1-86	Genl. Mazdoor Cat. I
61. Sri Punit Mahto		1-1-86	Genl. Mazdoor Cat. I
62. Sri Lakhan Mahto		1-1-86	Genl. Mazdoor Cat. I
63. Sri Mohan Rajak		14-9-86	Genl. Mazdoor Cat. I
64. Sri Naryan Prajapati		14-9-86	Genl. Mazdoor Cat. I
65. Sri Surendra Mahto		14-9-86	Genl. Mazdoor Cat. I
66. Sri Budhan Prajapati		14-9-86	Genl. Mazdoor Cat. I
67. Sri Ghanshyam Nayak		14-9-86	Genl. Mazdoor Cat. I
68. Sri Puran Mahto		14-9-86	Genl. Mazdoor Cat. I
69. Sri Jaya Prajapati		14-9-86	Genl. Mazdoor Cat. I
70. Sri Md. Habib Ansari		7-7-88	Genl. Mazdoor Cat. I
71. Sri Suraj Rajak		1-1-86	Genl. Mazdoor Cat. I
72. Sri Asha Ram		1-1-86	Genl. Mazdoor Cat. I

SENIOR PERSONNEL OFFICER

Govindpur Project

(SHAFIQUE KHAN)

General Secretary (UCWO),

United Coal Workers Union

(R.S. MURTHY)

Advocate

(PROJECT MANAGER)

C.C.L. Govindpur Project

(A.K. SINHA)

General Manager (KTA)

CCL : Kathara Area

(R.N. PANDEY)

Dy. Chief Personnel Manager

CCL Kathara Area.

नई दिल्ली, 13 अक्टूबर, 1992

का. आ. 2812.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्जन में, केन्द्रीय सरकार विजया बैंक के प्रबन्धता के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-92 को प्राप्त हुआ था।

[संख्या एल-12012/93/86-डी-4 (ए)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 13th October, 1992

S.O. 2812.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in industrial dispute between the employers in relation to the management of Vijaya Bank and their workmen, which was received by the Central Government on 8-10-92.

[No. L-12012/93/86-D.IV(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 132 of 1988

PARTIES :

Employer in relation to the management of Vijaya
Bank

AND

Their Workmen.

PRESENT :

Mr. Justice Manash Nath Roy, Presiding Officer.

APPEARANCE :

On behalf of Management—Mr. D. K. Ghosh, Advocate with Mr. P. Pathak, Advocate.

On behalf of Workmen—Mr. K. R. Natarajan, Vice President of the Union.

STATE : West Bengal.

INDUSTRY : Banking.

AWARD

The action of the Vijaya Bank, Calcutta, a Nationalised Bank, in treating the difference between the total emoluments drawn by S/Shri G. M. Dalvi and Lalta Singh as sub-staff and total emoluments which were drawn by both on promotion to the clerical cadre, as adjustment allowance without any express provision in the concerned settlement and subsequently setting off such adjustment allowance against the future increments, if justified, was in issue, which was referred to this Tribunal for adjudication, by the appropriate government under the concerned order of reference being No. L 12912/93/86 D.IV(A) dated 8-9-1987.

2. The cases of the said two employees were represented by Vijaya Bank Employees' Union, West Bengal (hereinafter referred to as the said Union) and they have stated that the employees concerned were permanent workmen of the Bank and they joined before Nationalisation of the same. It has been stated that G. M. Dalvi had joined as Driver-cum-Peon and the other employee Lalta Singh joined as Peon and both of them were sub-staffs of the Bank, but became eligible for promotion to clerical cadre as per Service Rules and in fact, were promoted to such cadre, with effect from January 1, 1983 and on such promotion, they were given the time scale of basic wages of Rs. 325-20-405-25-455-30-545-35-580-40-660-45-750-50-800-60-1040. The particulars of the drawings of the employees in subordinate cadre before 31st December, 1982, i.e. prior to their promotion and those received by them on promotion, have been shown in paragraph 5 of the written statement and it has been alleged that an adjustment allowance amounting to Rs. 230.96 p. and Rs. 169 was created unilaterally by the Bank for the respective employees.

3. It has also been indicated that on promotions, the said employees were drawing special allowances totalling to Rs. 259.48p and Rs. 229.54p respectively, in the subordinate cadre, prior to their promotion to clerical cadre and in revising the salaries on promotion and fitting them at the time scale, the Bank, as stated earlier, unilaterally converted the said special allowance into adjustment allowance and it was found out later that for every increase in basic wages by way of annual increment of the promotee clerk, a sum equivalent, was being reduced from the adjustment allowance, with the result, the emoluments of the said employees on promotion as Clerk, remained static for some years excepting ofcourse for variation in D.A. and other allowances, till the entire amount of adjustment allowance was wiped off.

4. It has further been alleged that on promotion to the clerical cadre of the employees concerned, the Bank claimed to have protected their total emoluments on such promotion, by way of adjustment allowance, but in fact, there was no such protection in effect and in reality and it was found that such allowance was paid in place of special allowance, which the said promotee clerks were drawing in their subordinate cadre. It has been indicated that as per industry-wise all India Bipartite Agreement/Settlement between the Indian Banks' Association and the Unions concerned, which incidentally governs the wages and service conditions, including the special allowance as part of the "pay" for all practical purposes and as such, they were deserved to be protected, but the Bank, as stated earlier, arbitrarily and unilaterally adopted such illegal measure of introducing a new head of "adjustment allowance", illegally setting off the same against the future increments of the

promotees in clerical cadre. It has been alleged further that the said Union made repeated representation to the Bank, to evolve a correct fitment formula for the above subject, but such attempts failed and the conciliation proceedings, which was initiated over the issue, also failed due to adamant attitude of the Bank.

5. Thus, in this proceeding, the said Union has prayed for appropriate reliefs in respect of the said employees for their fitment, which according to them has happened due to wrong, faulty, perverse and arbitrary fitment formula, evolved by the Bank. This was also claimed by the said Union that really, the promotion as received by the said employees, became a punishment of reduction of their wages and for that they were entitled to necessary opportunities.

6. The Bank claimed the reference as made, to be not maintainable, since the appropriate Government has prejudged the issue under reference and thereby, they have acted quasi judicially, although they do not possess such power. The reference as made, was also claimed to be, not maintainable, as the same was beyond the Second and Third Schedule of the Industrial Disputes Act, 1947 and such reference was also claimed to be not maintainable, as the said Union had or has no locus standi and representative character, to espouse the cause of the workmen, apart from claiming that the reference should not have been made, as the same interferences with the terms of settlement, the particulars whereof would be indicated hereafter. It was also claimed that the concerned dispute was not duly raised and the same suffered from the infirmity of non-application of mind.

7. Without prejudice to the above, on merits, the Bank contended that there was a settlement arrived at on June 17, 1982 between the Bank and the two recognised Unions, namely Vijaya Bank Workers' Organisation and Vijay Bank Employees' Association, relating to promotion from clerical cadre to officer cadre and from sub-staff cadre to clerical cadre, which according to them, was duly circulated by a circular dated June 19, 1982 (Ext. M-2) and the said settlement came into force with immediate effect. It has also been indicated that the said settlement amongst others, contained fitment formula applicable to the sub-staff on promotion to the clerical cadre, the particulars whereof are quoted hereunder :

"On promotion to clerical cadre, a sum of Rs. 75 only will be added to the basics pay which the sub-staff was drawing as on the date of promotion and thereafter the promotee will be fitted in the corresponding stage in the clerical scale, special allowance CCA, HRA, etc., will not be taken into account for the purpose of fitment. However it shall be ensured that there shall be minimum increase of Rs. 35 over and above the total emoluments last if drawn by the promotee".

8. It is the case of the Bank that consequent upon the implementation of the terms as quoted above, they received number of representations from individual employees, as well as the Unions mentioned earlier, to the effect that employees promoted during the period from January 1, 1979 to June 16, 1982, were getting less salary compared to the employees promoted on and from June 17, 1982 and it also appeared that sub-staff promotees, who were juniors and were promoted subsequently, were drawing higher emoluments than the senior promoted earlier. It has been stated that both the said Unions, who were parties to the above settlement, raised disputes and the Bank, appreciating the difficulties and the anomalous situation, had agreed to settle the matter by mutual discussions and accordingly, the dispute in question was resolved with a specific stipulation that in case the matter was not settled by the end of the year, these Unions would be free to take up the matter afresh by appropriate steps under or within the provisions of the Industrial Disputes Act, 1947.

9. It was also the case of the Bank that the matter was discussed with these Unions, who were recognised and a broad consensus was reached and in conformity thereof a circular (Ext. M-4), was issued on June 13, 1985 and as per the same, it was agreed to extend fitment formula as

indicated earlier, to all these employees, who were promoted from January 1, 1979 to June 16, 1982 and to write off the adjustment allowances paid to them on promotion, in four equal instalments from future annual increments and D.A. thereon. It has also been stated that after the issue of that circular, no dispute was raised either by these two recognised Unions or by any individual employee, in the matter of fitment or formula as evolved on adjustable allowance and as such, it can be implied that the said circular was accepted without any protest and thus, binding on all the concerned employees. It has further been pointed out that when the Bank has acted in accordance with the provisions of that settlement and the consensus arrived, so there is or would be no need or necessity to make interference in the proceeding and more particularly when, the said Union and its constituent members and all the employees have accepted the benefits under that settlement dated June 17, 1983 as circulated through Ext. M-4. As such, it has also been claimed that the said Union, is estopped from taking or raising any contrary plea.

10. Apart from the above, the contentions as raised by the said Union in their written statement have been denied categorically by the Bank and it was their further case that all throughout they have acted duly and bonafide and in due exercise of their power, jurisdiction and authority.

11. To the above written statement, there was a written reply, filed by the said Union on March 30, 1989, wherein apart from denying the material allegations, the said Union has further claimed that they are neither estopped from raising the dispute nor contending that the action of the Bank was arbitrary, bad and void.

12. It would further appear from the pleadings that the said Union claimed and contended that they were not bound by the agreement dated June 17, 1982, which is part of Ext. M-4, as they were not parties to the same or were present at the time of execution of the same. But, they could not deny that the two employees derived benefits under the same or accepted the same without any objection. At least, nothing has been shown on their objection, if any, to the said agreement. The procedure for "Fitment" or the provisions thereof, were as under :—

"M. Fitment :

On promotion to clerical cadre, a sum of Rs 75/- (Rupees Seventy five only) will be added to the basic pay which the sub-staff was drawing as on the date of promotion and thereafter the promotee will be fitted in the corresponding stage in the clerical scale. Special Allowance, CCA, HRA, etc. will not be taken into account for the purpose of fitment. However it shall be ensured that there shall be a minimum increase of Rs. 35/- (Rupees Thirty Five only) over and above the total emoluments last drawn by a promotee."

which according to the said Union do not contain any express provision for "Adjustment Allowance" and as such also, the measures/steps on that account by the Bank was illegal, irregular and void and the action in arriving at the settlement as indicated earlier, was claimed by the said Union, to be a ruse to by-pass the impact and effect of the same by the Bank, in collusion with those recognised Unions. This shows that the said Union was well aware of the fact that the other two Unions were recognised Unions. In any event, it was claimed that even under the concerned agreement, the Bank had no authority any power to create such unethical, illegal and unauthorised "Adjustable Allowance", to be set off against the further increments in clerical cadre and such setting off by the Bank, was also unauthorised under the provisions of the All India Industry-wise Bipartite Settlement where they were parties and signatories.

13. It was also claimed that the said Bipartite Settlement empowers denial of benefits of annual increments in case of punishment awarded to the employees and since, such punishment has been inflicted, the employees concerned, as stated earlier, were entitled to opportunities and in the absence thereof, the actions as taken, should be deemed to be against all principles of natural justice. It was further alleged that the "Special Allowance" drawn by the promotee clerks in

the subordinate cadre has not been duly protected in the clerical cadre, which ought to have been done by merging the same with basic pay at the time of fitment.

14. The relevant statements of the Bank, to some extent have been indicated earlier. However, it should be noted that the above statements and allegations of the said Union were categorically denied by the Bank.

15. The employees concerned have deposed as WW-1 and WW-2 and from such depositions, it will appear that they have alleged that the Bank has not protected their special allowance, which were given at least for some years, but their basic pay were not curtailed and on promotion as aforementioned, they got the protection to the tune of Rs. 35/-. It has of course been indicated that their gross salaries were not increased. They have of course alleged that they were not conscious about the agreement Ext. M-4 with the recognised Unions and furthermore, they had to agree that there was no record or document showing that after promotion, they received less salary. It was their case that Special Allowance was not paid to or received by an employee as a matter of course and such allowance was paid for performing Special Jobs and duties and as assigned. It has been stated that adjustable allowance was given as the employees concerned were eligible for the same. Admittedly, no document was produced to establish that Special allowance, which was not paid for all the posts were paid continuously and the posts, where the employees concerned were working on promotion, were not entitled to Special allowance. It is true that no objection whatsoever and at any stage was raised against non receipt of Special allowance and yearly increment has been allowed on adjustment by the Bank and in 1990, there was settlement over the adjustable allowance and promotion, at least of WW-2, on the basis of that settlement.

16. The other evidence was by MW-1, Sri Karunakar Shetty, Senior Manager of the Personnel Department of the Bank. He has proved the circulation of the promotion policy of Award Staff dated June 7, 1982, through the circular Ext. M-3 and because of such promotion, additional benefit of Rs. 75/- minimum increase was available to the employees concerned and there was overall increase of Rs. 35/- in total pay. It was his evidence that employees promoted from July 1, 1979 to June 16, 1982 received less than those promoted from June 19, 1982 & for such difference, a dispute was raised before the ALC(C) where a consensus by Ext. M-4 was arrived at in respect of the benefits to the employees, who were promoted prior to June 18, 1982 and thereafter and no dispute was ever raised. It was also stated that on their promotions, the employees concerned did not get less pay. He has further stated that Ext. M-1, particularly from clause 5 of the same, the benefits available to the employees, would be available and he also stated that as an effect of Ext. M-1, the sub-staffs were to get additional increments than the sub-staff promoted earlier and "Adjustable Allowance" was introduced for protecting the total emoluments, as it was felt that without the same, the total emoluments could not be protected.

17. It was claimed by this MW-1 that the espousing Union had no right and character to sponsor this dispute. He also stated that adjustable allowance was granted and adjustments were reduced to such extent as corresponding to the amount of increase, and such deduction had nothing to do with the increase in gross salary. His statements further support the statements of the employees that special allowance is given for special duties. He has stated that adjustable allowance was not prevalent prior to June 17, 1982 and the same was not given by virtue of the settlement of June 17, 1982 and the same was given effect to by virtue of the agreement in Ext. M-4. He claimed that basic pay was protected and promotions in this case were given in terms of the agreement dated June 17, 1982 and he has also stated that cash allowance is paid to those who are in cash department only and after his promotion Lalta Singh did not get special allowance, but he regularly received increments. It should be noted that the above mentioned provisions for 'Fitment' is also shown and mentioned in Clause "M" of Ext. M-3 which is the Promotion Policy for Award Staff. There is no dispute that Special Allowance, CCA, H.R.A. etc. will not be taken into account for the purpose of fitment and in the matter of fitment, a minimum increase of Rs. 35/- (which

the two employees here, have received), should be paid over and above the total emoluments last drawn by the promotees.

18. It was indicated by the witness MW-1 that as a result of the said agreement in Ext. M-4, the employees were promoted on January 1, 1983 and they received fitment allowance on that basis and on that account of fitment, there was no other settlement and prior to Ext. M-3, there was no other written settlement. He has further stated that there was no representation, either oral or written by the said Union or by their members, if any, asking for any rectification of Ext. M-3, but the said Union directly approached the A.L.C. (C), for redress of their alleged grievances. He has further stated that on the issue of fitment, no dispute was ever raised by the two recognised Unions as mentioned earlier and the relevant clause of fitment was applicable in respect of all the employees promoted along with the two employees concerned. The witness has further stated that the said clause of "Fitment", do not provide for adjustable allowance, but the same was also prevalent earlier. To establish the above, Ext. M-5 was sought to be relied upon, but the same was objected to. He further stated that although specific provisions are not there, but the Bank acted to protect the total emoluments of the employees and for that reason, adjustable allowance was given, which again was not opposed at any stage and all including the two employees concerned, have accepted the same and acted on that basis.

19. Mr. Ghosh, referred to the order of Reference and indicated that on due detection and construction, the same will appear to have three parts viz. (1) the justifiability of the Bank in treating the difference between the total emoluments drawn by the two employees, (2) such difference due to their promotion to the clerical cadre, which ensured a minimum of Rs. 35/- increase and (3) the steps to implement and impose adjustable allowance, which according to the said Union, was not expressly provided in Ext. M-3 and validity of the consequent setting off such allowance. He indicated that there is no doubt that the said two employees, admittedly received the said minimum increase of Rs. 35/- without any objection and enjoyed such benefits privilege, and thus, the real and primary question to be decided in this Reference is the issue No. (3) as indicated above.

20. He submitted that there was in fact no dispute about the execution of Ext. M-3 the agreement dated June 17, 1982 i.e. part of Ext. M-4, which having been arrived at duly on a bipartite level, was and is binding all, including the said two employees and more particularly when, they have duly enjoyed the fruits of the same and that too without any objection or exception and furthermore, dispute, if at all and in any event, was not raised duly and that too when the said Union had no locus standi to espouse the cause or any representative character.

21. In support of his submissions, Mr. Ghosh referred to the statements as contained in paragraph 10(a) of the Bank's written statement, same particulars whereof, including the fitment formula, have been quoted earlier and pointed out that on such facts, the question, which is to be decided and found out, is if there was any decrease in the salary of the employees concerned and submitted that answer to such question should be in the negative and against the employees and that too on particular reference to the evidence of WW-1 and MW-2 and so also that of MW-1. It is true that on a reference to the evidence, there would be no doubt that the employees here, not only received the minimum increase of Rs. 35/- but their total emoluments/salary were not at all interfered with and if the said increase of Rs. 35/- is taken into consideration, it will appear that they really received more, and no action, prejudicial to their interest was taken.

22. As indicated by Mr. Natarajan, there is strictly no provision for adjustable allowance in Ext. M-3 and the argument regarding special allowance as indicated and which he could not also deny, would be covered by clause 5.9 of the Bipartite Settlement as pointed out by Mr. Ghosh. He of course, in reply, made a reference to clause 5.4 of the Bipartite agreement, dealing with general conditions and principles. He could not also deny the benefits of increment as received by the employees concerned, but he claimed the imposition/incorporation and introduction of 'adjustment

allowance' to be illegal and further alleged that the employees concerned suffered, because of stagnant gross salary. This was perhaps a new case sought to be introduced and argued.

23. It was then submitted by Mr. Natarajan that increment can be stopped in case of punishment only and since such action was taken, the employees concerned were entitled to opportunities. These submissions of Mr. Natarajan were attractive no doubt, but the same cannot be applied or brought into play or action in this case, as admittedly, the employees concerned have not really suffered any loss and even if they have suffered some loss, the same was not due to any penal action, but the action was taken in terms of the clause relating to fitment as indicated earlier or for imposition/incorporation of adjustable allowance, which in the facts of the case, was reasonable and cannot be said to be otherwise. Mr. Natarajan further contended that the effect of Special pay should be, the same should have the effect of all qualities of pay and included their Basic Pay, P. F. and Bonus and the same became the terms of service and conditions of employment of the employees concerned to receive the same. Thus he submitted that when the real affect of incorporation of 'Adjustable allowance' was to interfere with such terms, so that would really mean a change in their conditions of service, which could not also be effected or taken recourse to, without a due and proper notice. It was claimed that adjustable allowance should have been tagged with basic pay. Such submissions, in the facts and circumstances of the case, in my view, are of little value and substance.

24. I have indicated earlier, the submissions to some extent as put forward by Mr. Ghosh, on the question of locus standi of the said Union to represent the cases of the employees or to espouse their cause. He also pointed out that when such point regarding locus standi was put forward with knowledge and notice to the said Union, it was their obligation to discharge and dispel such onus. But, the said Union, not only has not challenged such submissions, but has not duly discharged their obligation/onus on the point.

25. There was or has been no evidence establishing the fact that the agreement as referred to hereinbefore, and which was binding on all unless duly terminated, was actually terminated in any manner whatsoever and as such, the Reference as made, cannot be interfered with and for such facts as mentioned, the Reference should be considered as not maintainable, more particularly when, the terms of the said agreement was not been violated and in fact, the employees concerned have duly and fully took the advantage of the same and enjoyed the same without any exception. The adjustment of payment as received by the employees concerned including others by adjustable allowance was not unauthorised or unreasonable, the more so when, none else, other than the said two employees only, have taken exception to the same.

26. In view of the findings as above, thus even without going into the question of locus standi of the said Union or deciding the same, the Reference cannot be answered in the affirmative and in favour of the employees concerned and as such the Reference is rejected.

This is my Award.

Dated, Calcutta,

The 25th August, 1992.

MANASH NATH ROY, Presiding Officer.

नई दिल्ली, 13 अक्तूबर, 1992

का. आ. 2813.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय जीवन बीमा निगम के प्रबन्धतंत्र के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-92 को प्राप्त हुआ था।

[संख्या एल-17012/41/86-डी-4(ए)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 13th October, 1992

S.O. 2813.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the mgt. of Life Insurance Corporation of India and their workmen, which was received by the Central Government on 9-10-92.

[No. L-12012/41/86-D.IV.(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

CENTRAL INDUSTRIAL TRIBUNAL, JAIPUR

Case No. C.I.T. 24/1987

REFERENCE :

Government of India, Ministry of Labour New Delhi Order No. L-17012/41/86-DIV(A) dated, 11-6-1987. Shri P. C. Meghwal through The Northern Zone Insurance Employees' Association Katchery Road, P. O. Box No. 46, Ajmer. —Applicant.

Va.

Divisional Manager, Life Insurance Corporation of India, Jeevan Prakash Ranade Marg, Ajmer. Opp. Party.

PRESENT :

Hono. Judge Shri Jagat Singh ji, RHJS

For the Applicant.—Shri B. L. Samdaria.

For the Opposite Party.—Shri M. D. Agarwal.

Date of Award :

9 March, 1992.

AWARD

The Central Government vide its above cited order has referred the following dispute for adjudication to this Tribunal under Section 10(1)(D) of the Industrial Disputes Act, 1947 :

"Whether the action of the management of Life Insurance Corporation of India, Ajmer Division Ajmer in not allowing Shri P. C. Meghwal, Higher Grade Assistant to cross EB with effect from 1-2-1985 is just and legal? If not, to what relief the concerned worker entitled".

2. The Northern Zone Insurance Employees Association, Ajmer, hereafter referred to as the Association has espoused the dispute of Shri P. C. Meghwal, Higher Grade Assistant (HGA) who has been not allowed to cross the Efficiency Bar (EB) w.e.f. 1-2-85. The facts in short are that Shri Meghwal was HGA at Unit No. 1 in Udaipur Branch office of the Life Insurance Corporation of India. The pay scale of the HGA was 775-60-1135-EB-75-235. Shri Meghwal on getting his annual grade increment due on 1-2-84 reached the stage of 1135 in the above pay scale and, therefore, he was to cross the EB before 1-2-85 in order to get next annual grade increment of Rs. 75. The plea of the Association is that pay scales and other service conditions of the workmen of the Corporation are governed by the terms of Life Insurance of India class 3 and 4 Employees (Revision of Terms and conditions of service) Rules 1985, as also in accordance with the provisions of the LIC (Staff) Regulations 1960, hereinafter referred to as Rules 1985 and Staff Regulations 1960 respectively. The Staff Regulations 1960 are admittedly have framed and enacted by the Cor-

poration, in exercise of powers vested under clause (b) (bb) of Sub-Section 2 of Section 49 of the Life Insurance Corporation of India Act, with the previous approval of the Central Government and by notification in the gazette of India and, therefore, these Regulations have the force of law. The contention of the Association is that as per the aforesaid Regulations of 1960 and the judicial pronouncements including those of the Supreme Court of India a duty is cast on the Corporation to observe the rules of natural justice while passing any order, affecting the rights of any individual employee under the Regulations. It was therefore, absolutely essential that before imposing the EB as provided under the proviso to Regulation 56(3), the circumstances necessitating the proposed imposition of EB should have been communicated to the employee and an explanation should have been sought from him and after duly considering that explanation a final decision regarding imposition of efficiency bar must have been taken. The Corporation has also passed a circular No. Personnel-A/3222/ASP/58 dated 18-9-58 specifically stipulating that :

"Whether it is considered necessary to impose efficiency bar, the circumstances necessitating the proposed imposition of the bar should be communicated to the employee and the employee should be given an opportunity to submit the explanation which should be duly considered for a final decision regarding the imposition of efficiency bar."

The Association submits that alongwith the instructions of the above circular the Corporation has issued the instructions for filling the confidential reports in form No. CR-5 under the work of the administrative staff which reads as under :

"Wherever any adverse report is made which is likely to affect the employee the reviewing officer should communicate the same to the employee and give him an opportunity of explanation orally and/or in writing. The explanation given by the employee should be filed along with the confidential report together with such remarks as the reviewing officer considers necessary to make such cases should be brought to the notice of the appointing authority."

The plea of the Association is that inspite of the above circulars and instructions thereunder and inspite of the judicial pronouncements, the Corporation with held the efficiency bar of Shri Meghwal falling on 1-2-85 without intimating him the reasons for with holding the EB and without giving him chance to submit explanation for the same which was against the Staff Regulations and principle of natural justice, as as also in flagrant violation of the judicial pronouncements, therefore, being arbitrary and unjust and must be set aside.

3. It is also submitted that the Corporation communicated its decision of not allowing to cross the EB by its letter dated 13-6-85 against which Shri Meghwal by his letter dated 18-7-85 desired to know the reasons from the Corporation why the EB was not cleared. The Senior Branch Manager Udaipur Unit I by his letter dated 25-9-85 has informed that the decision was taken by the competent authority on the basis of his work record of the last three years. The Association submits that the workman has been discharging his duties and functions satisfactorily and no one had any time in the past expressed any dissatisfaction about his work or administered any warning about his work and efficiency therefore the workman has been enjoying unblemished service record. On the face of these facts, the decision of the competent authority was quite arbitrary and unjust apart of being illegal and void-ab-initio. It is further submitted that the workman was again on 23-5-86 informed by the branch office Udaipur Unit I that the competent authority had again decided not to remove the efficiency bar already imposed on 1-2-85. This time also no reason was assigned as to why the continuation of the imposition of efficiency bar was felt necessary. The imposition of aforesaid EB even after 1-2-86 was also said to be due to some alleged adverse remarks/entries in the annual confidential reports of the workman concerned. The conten-

tion of the Association is that there is no procedure in the LIC permitting any authority to sit as an appellate authority against these remarks, nothing could be done even if the alleged remarks/entries are arbitrary unjust and not based on objective assessment through these confidential reports. The alleged adverse remarks/entries are not borne out by the factual day today working of the workman and were never communicated. Thus no opportunity was given to the workman to defend himself against such remarks by the reporting authority and/or by the reviewing authority. As per the plea of the Association these un-communicated confidential reports, remarks or entries as the case may be, should not have been considered by the competent authority for imposing EB because these reports were not based on true work of the concerned employee nor were filled objectively and they were never communicated to the workman nor his explanation was sought. As per the Association, these reports were not mere obligation or formality or technical requirement but are in fulfilment of the essential requirement of the principles of natural justice and an violation of these principles renders the decision based on such un-communicated confidential reports ab-initio-void, illegal and of no consequences. The decision of imposing of EB was based on such a material which affects the legal right of the workman concerned because the material which affected the decision of the competent authority was kept outside the knowledge of the workman. As per the Association with holding of annual grade increments tantamounts to inflicting of punishment under Staff Regulation 39(1) imposition of such penalty on an employee, without affording him the reasonable opportunity to explain, is breach of the aforesaid regulation and is liable to be set aside. In these circumstances Shri P. C. Meghwal is entitled to have his increments, due on 1-2-85 and subsequently on 1-2-86 alongwith other consequential benefits.

The Life Insurance Corporation of India, non-applicant has denied all the allegations of the Association while admitting that Staff Regulations 1960 and other circulars and instructions issued by the Corporation from time to time governs the service conditions of the employees of the Corporation. These Staff Regulations have the force of law. Corporation states that it is not necessary to communicate to the employee and seek his explanation before imposing EB under the provision of regulation 56(3) because with holding of EB is not a penalty under regulation 39(1) of the Staff Regulation 1960. According to the Corporation, circular dated 18th September 1958 has already been superseded by the circular No. 3550/ASP/76 dated 20-9-76. The case of Shri Meghwal is covered by the later circular, and the circular dated 18-9-58 has no value in the present case and neither the Association nor the concerned workman can take any benefit out of it. Circular dated 20-9-76 contains the procedure to deal with the cases of EB. In terms of the afore stated circular under heading 2, EB, Sub-para (f) Shri Meghwal has secured less than 24 marks out of 40 marks for confidential reports for a period of 3 years immediately preceding the due date of his increment at the efficiency bar stage including special confidential report and therefore he was found unfit to cross the EB. As per the Corporation the principle behind the EB is that the general test should be whether the employee's work has fallen below the standard of Efficiency, normally expected from him at that particular stage of service career. When the efficiency at the staff has been reinforced by the experience from which he should have been profited. To arrive at an unbiased judgment in the matter, the work record of three years immediately preceding the date of efficiency bar is considered and special confidential report was also called for and considered by the appointing authority and as Shri Meghwal has secured less than 24 marks out of 40, he was not found fit to cross the EB. The appointing authority has considered the marks assessed and gained in the confidential reports based on the numerical rating method. The confidential reports of the preceding three years of Shri Meghwal were filled in by the different officers as there were different officers in the three years period and the said reports were reviewed by the reviewing officer. After considering these reports

Shri Meghwal was not found fit. The action of the Corporation was ordinary and normal administrative function and was in pursuance of the norms and procedure of the Corporation. Therefore, cannot be interfered with by the court. The work of Shri Meghwal was satisfactory as a G. A. and therefore, he was promoted to HGA but subsequently when his work was unsatisfactory, it found reflection in his confidential report, which led to imposition of EB. The Corporation states that Shri Meghwal has not filed an appeal against the afore stated order as provided under Staff Regulation No. 47 therefore, the reference and the claim is not maintainable and he is estopped to challenge the disputed order of EB.

4. The Association has not produced any oral evidence and relied on the circular as well as staff regulation of the Corporation apart from the pronouncements of apex courts as well as of different High Courts. On the contrary Mr. S. L. Sharma, Assistant Administrative Officer of Personnel Department has submitted his affidavit from the side of the Corporation who is also cross examined at length by the representative of the Association. Ex. M-1 to M-3 photo state copies of documents have also been filed from the side of the Corporation. Thereafter I have perused the record minutely and have heard Shri Samdaria, learned Counsel on behalf of the Association and Shri M. D. Agarwal, learned Council on behalf of the Corporation at length.

5. The plea of Mr. Samdaria was that un-communicated confidential reports have been considered by the Corporation before issuing the order dated 13-6-85, therefore, the action of the Corporation was not only against the Staff Regulations and circular dated 18-9-58 but was against the natural principles of justice as inscribed in the pronouncements of the apex court as well as of high courts. To appreciate the argument advanced by Mr. Samdaria, I have gone through the circular date 18-9-58, the aforesaid circular, also have alongwith it instructions for filling the confidential reports on the working of the administrative staff. Para 10 of these instructions makes it obligatory on the Corporation to communicate the adverse reports to the employee and give him an opportunity to explain: either orally or in writing and the said explanation shall be filed with the confidential reports alongwith the remarks of the reviewing officer and shall be brought to the notice of the appointing authority. The submissions of the Corporation are that the circular dated 18-9-58 has been superseded by a circular dated 20-9-76. I am also in agreement with the plea of the Corporation because circular dated 20-9-76 is with regard to normal grade increment, crossing of EB, grant of increment after reaching maximum scale of pay and for grant of special increments for graduation. This circular states that these instructions will come into force with immediate effect and will supersede earlier all instructions in these matters. Therefore, circular dated 20-9-76 has superseded all those instructions which relate to normal grade increments crossing of EB, grant of increments after reaching of maximum pay scales and grant of special increments for graduation. It is pertinent to note that instructions for filling the confidential reports which were contained in circular dated 18-9-58 have not been superseded by circular dated 20-9-76. The point for determination before me is that whether un-communicated confidential reports can be considered by the Corporation for imposing or withdrawing the EB. The plea of Shri Samdaria from the Association side is that with holding of EB was a penalty whereas the plea of the Corporation was that it was not a penalty under regulation 39(1) of the Staff Regulation 1960. To appreciate the arguments advanced before me I must take help from circular dated 20-9-76 which says that with holding of increment does not amount to penalty under regulation 39 of the Staff Regulations and therefore, it is not necessary to communicate the grounds for not allowing to cross the EB. Similar situation arose before a single bench of Punjab and Haryana High Court in Haryana Khadi and Village Board Chandigarh Vs. Shri Kishan Gopal Taneja, 1986 (2) S.L.R. 121, the honourable Judge was of the opinion that according to Rule 4 of the Punishment and Appeal Rules, with holding of EB was not a punishment under the Rules and once it is so provided then the question of issu-

ing any notice as such did not arise. The afore-stated view of the honourable judge was based on a decision of the same High Court in *Dr. Nazar Singh Vs. Punjab University* 1971 (2) SLR, 65. While distinguish the Supreme Court Judgment of *State of Orissa Vs. Beena Pani Dei and other*, the single judge was of the view that once it is held that the order is purely administrative nature and did not amount to punishment then the question of issuing any notice as such did not arise. Mr. Samdaria on the contrary could not show me any authority which shows that with holding of EB could be termed as penalty. Therefore, in my considered view also as per Regulation 39 of the Staff Regulations 1960 and as per the pronouncements of the single bench of Punjab and Haryana Court, with holding of EB is not a penalty.

The next contention advanced before me was that even if with holding of EB is not a penalty under Regulation 39(1) of Staff Regulations 1960, the impugned order can not be sustained because it was based upon un-communicated consideration of confidential reports. The factual position is very much clear because Shri S. L. Sharma, Corporation witness has admitted in his cross examination that before issuing the order of with holding of EB, annual confidential reports of three years preceding the order were considered and a special report was also called for and considered. Shri Sharma had admitted that "कर्मचारी ने निर्धारित 40 अंकों में से सी 24 अंकों से कम अंक प्राप्त किये थे इसलिए उसे ई बी आस करने योग्य नहीं पाया गया।" Thereafter the witness stated that "गुप्त प्रतिवेदन में जो रिपोर्टिंग ऑफर रिज्यूइंग ऑफिसर को भावसंबोधनस हूँ वे कर्मचारी को नहीं बताये गये। Subsequently also the witness admitted in cross examination that प्रवर्ण एम-2 ब : परित किये जाने से पूर्व व्यक्ति को उसके गुप्त प्रतिवेदन में क्या एम्प्लीक हूँ कभी भी नहीं भेजी गई। इस प्रकार एम्प्लीक एम्प्लीक कम्प्लीकट करने का प्रावधान नहीं है।

Therefore, it is undisputed that before passing the impugned order of with holding EB the adverse entries of the annual confidential reports of preceding three years have not been communicated to the workman concerned. The contention of Shri Samdaria learned counsel was that the Corporation has acted against the principles of natural justice by with holding EB upon the basis of annual appraisal performance report of three preceding years which were not communicated to the workman and his explanation has not been sought. Shri Samdaria has submitted a pronouncement of Gujarat High Court *Dr. A. N. Benerjee's Case* 1986(2) LLJ, 67 which was a matter under Article 309 of the Constitution relating to Public Health Services Rules of Gujarat State. The facts of this ruling have no similarity to the present case because there, as per rules, confidential report for five years were to be considered before crossing the EB. The relevant years were 1974 to 1976 and the remarks for two years were very good and for the third year it was good whereas for the last year it was below average. The last remarks of below average was set aside and reviewed and therefore, Dr. Benerjee had good or very good remark for the immediate preceding five years to the EB period. Even then due to an executive circular further condition of positive merit was not found which denied the EB benefit to the officer concerned. In these circumstances the Hon'ble Judge was of the opinion that when the confidential report of the concerned officer was not below average or poor and his service has been reasonably satisfactory, he must have been permitted to cross the EB. Further it was held that a person can not be stopped from crossing EB unless he has been given an opportunity of being heard. There was no rule or circular like the one we have in the present case dated 20-9-76 which specifically states that with holding of EB is not a penalty under Regulation 39 of the Staff Regulations 1960 and, therefore, it is not necessary to communicate the grounds for not allowing EB. In these circumstances this ruling has no application to the present case.

The next ruling submitted by Mr. Samdaria was of Rajasthan High Court reported in 1988(2) RLR page 1 which was a full bench judgment but was not relating the points in controversy here. There, before the full bench, the matter was whether an appeal to the Service Tribunal lay

against an adverse entry in the annual confidential report and an order rejecting the representation against the same is appealable or not. Therefore, this ruling has also no application in the present case. Shri Samdaria has also relied upon *Vaidyanath Manapatia Vs. State of Orissa* reported in 1989 (4) SCC, 464 which was a case of compulsory retirement and as per the views of Hon'ble Judge of Supreme Court "Adverse entries awarded in the remote past and preceding promotion as well as crossing of EB could not form basis for the compulsory retirement. The Hon'ble Supreme Court was of the view that the purpose of communicating adverse entries to the Government servant is to inform him regarding his deficiency in work and conduct and to afford him an opportunity to make, amend and improve his work. Further if the entries are not justified, the communication affords him an opportunity to make representation". I am in respectful agreement of the above pronouncement but here the controversy is not with regard to promotion or the compulsory retirement, therefore, the above stated pronouncement is also of no help to the worker. Similar is the matter in *Brij Mohan Singh Copra's case* reported in 1987 (11) SCC, 186. There too, the matter related to compulsory retirement and adverse entries of the confidential report had not been communicated to the affected government servant. In *Gurudyal Singh's case* reported in 1979 Lab. I.C. 1186, the Hon'ble Supreme Court was discussing Punjab Civil Services Executive Branch Rules 1930 as well as Indian Administrative Service (appointment and promotion) Regulations 1955. There, too, the adverse confidential report was not communicated to the concerned officer and his explanation was not sought, and he was superseded by his juniors. In these circumstances it was held that the State Government shall consider the representation made by the appellant with regard to the adverse report in his confidential report and thereafter applying the test of merit and suitability-cum-seniority, the Selection Committee shall consider the case of the applicant also. In *S. N. Mukherjee's case* reported in AIR 1990 (SC) 1984, the Hon'ble Appex Court was of the view that "in the expanding horizon of the principles of natural justice, the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities". There also the matter related to General Court Martial and Army Rules 1954 and in that context the Hon'ble Court was of the view that the administrative authority was exercising the judicial or quasi-judicial function. Similarly in *Sukhdev Singh's case* in 1975 Lab. I.C. 881, the matter again was under Article 12, 14, 16 and 226 of the Constitution. The Hon'ble Judges were of the view that there is not substantial difference between rule and regulation because both are subordinate legislation and had uniform application to all members of the same group or class. The statutory authority cannot deviate from the conditions of service. In all the afore stated authorities the facts and circumstances as well as points for determination and law applicable was quite different to the facts and circumstances of the present case and, therefore, none of these pronouncement was applicable to the present case. Shri Samdaria learned counsel has relied upon a Bombay High Court pronouncement reported in 1989 (4) SLR 145 in which the matter was relating to EB and related to Maharashtra Civil Service Pay Rules 1981. Rule 37 of these rules was with regard to the EB. The Hon'ble Judges were of the view that "it was obligatory upon the government to communicate the adverse remarks to the concerned employees otherwise he was deprived of his valuable right of making the representation on the same". Uncommunicated adverse remarks cannot be the basis for not allowing EB. In that case *Shri Shindey was Conservator of Forest in pay scale 630-750-EB-40-1150*. On 1-11-80 the petitioner has reached the basic pay of Rs. 750 and on 1-11-81 he would have been entitled to draw his increment if EB was lifted as provided in rule 37. According to rule 37(2) of the Pay Rules, it was obligatory on the part of the authority to apply its mind to the confidential record of the petitioner annually. But the impugned order was held to be issued without involving the mind. Hence in the circumstances, the Hon'ble Division Bench held that "it was obligatory upon the Government to communicate the adverse remarks to the employee concerned because he was deprived of the right of making representation against the same". In the present case it is specifically mentioned in circular dated 20-9-76 that withholding the EB is not a penalty under regulation 39 of the Staff Regulations and it is not necessary to communicate the grounds for not allowing an employee to cross the EB. The

Association has neither challenged the afore stated circular in its claim petition nor it was referred to. It seems as if at the time of filing the claim petition the Association has no knowledge of the circular and, therefore the claim was based on circular dated 15-9-58, which admittedly has been superseded by the later circular dated 20-9-76.

Mr. Agarwal on behalf of the Corporation has relied on a pronouncement of the Apex Court reported in Union of India vs. M. B. Reddy 1979(2) SLR 792. There also the matter was with regard to the compulsory retirement under rule 16(3) of All India Service (Death-cum-retirement) Rules 1958 and the Hon'ble Judges were of the view that compulsory retirement in public interest can be done by the Government even on uncommunicated adverse reports. Similarly the same Court in Prakash Chand vs. ONGC 1970 SLR 116 has held that with holding of promotion upon un-communicated confidential report was not improper and unjustified because Departmental Promotion Committee's action was not mala fide. In Union of India vs. M. B. Reddy, AIR 1980 (SC) 563 Order of Government servant retiring him compulsorily based on un-communicated confidential reports was also held proper. The afore stated decisions were not with relation to the EB but were relied upon because principles of natural justice were involved and also was based on un-communicated confidential reports. The pronouncement of Punjab and Haryana High Court reported as Haryana Khadi and Vikas Board vs. Gopa Krishna, 1985 (II) SLR, 121 was based on the EB and the facts as well as the legal implications were almost similar to the dispute in hand. In that case as per Rule 4 of Punjab Civil Services (Punishment and Appeal) Rules 1952 as amended by Haryana Amendment 1974, withholding of EB was not a punishment and the order was purely of administrative nature and not judicial one. Such orders were based on subjective satisfaction of the competent authority, therefore, it was held that courts cannot go beyond the order, being administrative in nature, and the rules of natural justice need not be observed before passing an order for withholding of the EB. The afore stated decision was based on an earlier decision of that High Court in Dr. Nazar Singh Vs. Punjab University 1970 SLR 1965. A SLP filed against that indement in to Hon'ble Supreme Court was also dismissed. Therefore the view expressed by the Hon'ble Judges of Punjab and Haryana was not interfered with by the Hon'ble Supreme Court. In that case also, un-communicated confidential reports were the basis of withholding the EB and therefore this case was squarely applicable to the case in hand having similar facts and legal implications.

The sum total of the pronouncements referred to above is that in cases of promotion and supersession principles of natural justice apply and the same cannot be based upon un-communicated confidential reports whereas the cases relating to compulsory retirement as well as withholding of EB do not amount to punishment and, therefore, they being in the nature of administrative orders and the subjective satisfaction of the competent authority is the only consideration, therefore, principles of natural justice do not apply and even if such orders are based on un-communicated adverse entries cannot be interfered with by the Courts.

There is one more aspect particular to the facts of this case because as per circular dated 20-9-76 employees whose efficiency is not upto the expective standard are not to be allowed to cross the EB and for this purpose an employee securing, on an average, less than 24 marks out of 40 marks for confidential reports of a period of 3 years immediately preceding to the due date of increment at the EB stage, is to be considered as unfit to cross the EB. For the purpose of assessing marks gained for confidential reports, the numerical rating method for counting marks for work record is to be followed. As per the afore stated circular Shri S. L. Sharma on behalf of the Corporation has stated in his affidavit that the EB stage of Shri Meghwal fell due on 1-2-85 and the confidential reports of the relevant period i.e. 11 months of the year 1982, full years of 1983 and 1984 and one month of January, 1985 were considered and the Senior Divisional Manager after calculating the numerical rating method of the proforma for consideration of release of efficiency bar came to the conclusion that Shri Meghwal could not obtain required marks, as he secured less than 24 marks out of 40, therefore, he was not certified to be fit for clearing EB according to the proviso of rule 56 sub-rule 3 of Staff

Regulations. In arriving at the afore stated required marks, it is not necessary that the confidential reports of the employee were below average. Even if the annual confidential reports of the employee were of average standard, he may not have been found fit to cross the efficiency bar as he may not have secured more than 24 marks. It is not necessary to convey the average annual confidential reports to the employee concerned for seeking his explanation. It is only when the annual confidential reports were found below average that the same shall be intimated to the employee. With regard to Shri P. C. Meghwal neither the Association in its claim has stated nor any such suggestion was put to Shri S. L. Sharma in his cross-examination that the annual confidential reports of Shri Meghwal for the relevant period were below average. It may just be possible that the annual confidential reports of Shri Meghwal may be good or of average category which need not have to be conveyed to Shri Meghwal. Therefore, in view of the afore stated factual and legal position I do not found merit in the arguments put forward by Shri Samdaria.

The Corporation has raised some preliminary objections in their counter claim which are not tenable. The contention of the Corporation was that Shri Meghwal had not filed an appeal against the impugned order there being a provision for appeal according to Staff Regulation No. 47 against the withholding of EB. In my view the applicant had two relieves open to him. He may have filed an appeal under the Staff Regulation 47 which he did not choose. The second relief available to him was under the ID Act. It is not only necessary to first avail the appeal opportunity and then only to avail the second relief. Therefore, this preliminary objection has no substance and hence rejected.

No other arguments were put forward before me from either side.

As per forestated discussions, the reference is answered as under:

"The action of the management of LIC of India, Ajmer Division in not allowing Shri P. C. Meghwal to cross EB w.e.f. 1-2-85 is just and legal and the applicant is not entitled to any relief. There is no order as to cost."

Let the award be published under Section 17(1) of the I.D. Act.

JAGAT SINGH, Presiding Officer

दिल्ली, 12 अक्टूबर, 1992

का. आ. 2814.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, पुवठ पारी अंड सन्ज, कोचीन (केरला) के प्रबंधक के संबंध निवोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, थम न्यायालय के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-92 को प्राप्त हुआ था।

[सं एल-35012/1/89-आई आर (मिस.)]

बी. एम. डेविड, डैस्क अधिकारी

New Delhi, the 12th October, 1992

S.O. 2814.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Poovath Paree and Sons, Cochin and their workmen, which was received by the Central Government on the 11-10-92).

[No. L-35012/1/89-IR(Misc)]

B. M. DAVID, Desk Officer

ANNEXURE
IN THE CENTRAL GOVERNMENT LABOUR COURT,
ERNAKULAM

(Labour Court, Ernakulam)

Friday the 4th day of September, 1992

Present :

Shri M. V. Viswanathan, B.Ss., LL.B., Presiding Officer.
Industrial Dispute No. 11/89 (Central)

BETWEEN

M/s. Poovath Parce and Sons, Stevedores, Calvethy,
Cochin-682 001, Kerala.

AND

Shri K. R. Kishore, Kallupadam House, South Thamaraparambu, Fort-Cochin, Cochin-682 001, Kerala.

Representations :

Shri Joseph Franklin, Advocate, Cochin 18.

For Management

M/s. Menon & Menon, Advocate, Cochin-16.

.. For Workmen

AWARD

This industrial dispute was referred to this court by the Government of India, Ministry of Labour, New Delhi as per the order No. 35012/1/89-IR (Misc) dated 23rd June, 1989. The dispute is between the management of M/s. Poovath Parce and Sons, Stevedores, Cochin Port, Calvethy, Kochin-I and their workman Shri K. R. Kishore. The issue referred for consideration is "whether the action of the management of M/s. Poovath Parce and Sons, Stevedores in the Cochin Port, Calvethy, Cochin-I in denying employment to Shri K. R. Kishore, Foreman with effect from 23-5-1987 is justified? If not, to what relief the workman is entitled?"

2. The workman filed a claim statement alleging as follows :

The workman Shri K. R. Kishore was working as a Foreman under the management firm. He was appointed as a foreman with effect from 15-10-1984 by the management. He worked as a trainee for a period of 15 days. Thereafter he was working as a permanent foreman on daily wages of Rs. 35. Subsequently daily wages was enhanced to Rs. 58.44. He received his daily wages at the said rate till 23-5-1987. He was also paid over-time wages for the overtime work he has done. He was also paid bonus by the management. On 23-5-1987 when the workman reported for duty in the office of the management, he was served with a charge-sheet dated 23-5-1987. It was alleged that he misappropriated the funds of the company by paying less amount to the concerned stevedoring workers than what he has claimed from the company. He was called upon to show-cause with 3 days. He submitted his explanation on 25-5-1987. Denying the charges levelled against him. But the management denied employment to the workman from 27-5-1987. The management has not taken any disciplinary action against the workman in pursuance to the chargesheet dated 23-5-1987. The matter was reported by the workman to the Joint Secretary of his union namely Cochin Thurumugha Thozhilali Union by his letter dated 7-7-1987. The union took up the matter and requested the Assistant Labour Commissioner, Cochin (Central), to interfere in the matter. But subsequently the Joint Secretary of the union joined hands with the Managing Partner of the management firm. As per the assurance given by the Joint Secretary of the Union, the workman approached the Managing Partner on 1-1-1989 for employment. He orally told the workman to work as a Menial Servant and to do the work such as sweeping the container and carrying wire lamps cable from the office of the management to the work area on shoulder etc. But that was not the duty of a foreman. Hence the workman refused to do such Menial job. The Joint Secretary of the union Shri P. M. Syed had

shifted his loyalty to the side of the management. Hence the workman resigned from the union by letter dated 14-2-1989. The copy of the resignation letter was sent to the Assistant Labour Commissioner, Cochin also. The workman requested the Assistant Labour Commissioner to interfere in the matter by his letter dated 20-2-1989. The Assistant Labour Commissioner convened meeting of the workman and the management. He requested for reinstatement with full back wages as he was denied employment illegally. The management representative contended that the workman was only a trainee foreman and the workman committed financial irregularities. He further submitted before the Assistant Labour Commissioner, that explanation submitted by the workman to the charge-sheet was not satisfactory to the management and so his service was terminated. In the said discussions the management agreed to re-employ the workman under the act for the service of the workman from 15-10-1984 to 23-5-1987 and also some more amount for the loss of employment. But the workman was not amenable for the same. The management put forward a proposal to pay Rs. 12,000 towards the terminal benefit of the workman. But the said offer was not acceptable to the workman. Thus the conciliation failed and report was submitted to the Central Government and it resulted in the present reference. The Management denied employment to the workman without any valid or sustainable reason. The charge levelled against the workman is frivolous and baseless. He had not committed any misconduct. He had no dealings with money of the management. The ghost money etc. was paid from the officer to the tinsel or other commission agents. The workman has discharged his duty faithfully. The workman was only a foreman and he has to supervise the work of the stevedoring workers. The workers are the employees of the Cochin Dock Labour Board and so the payment of wages to workers by the workman herein did not arise. He had no occasion to pay money to the stevedoring workers. The workmen herein was working as a permanent foreman in the management firm. He is entitled to reinstatement with full back wages with effect from 25-5-1987. He has also claimed the wages at the revised rate from 30th September, 1987 onwards. He has also claimed interim relief at the rate to Rs. 3.33 per shift.

3. The management filed a written statement contending as follows :—

The reference is bad in law. There is no denial of employment to the workman. The management has not declined to employ the workman. But the workman refused to accept the employment offered by the management in pursuance of a memorandum of settlement dated 14-12-1988. The workman was not a foreman. His duty was issuing chits to casual workers, supply gloves etc. He was engaged as a trainee on trial basis. Initially he was paid stipend of Rs. 15 per day shift and Rs. 20 per night shift and later it was enhanced to Rs. 28.22 and Rs. 30.22 respectively. The allegation that the workman was a trainee for a period of 15 days is not correct. But he was a trainee throughout. He was not confirmed in service. He was not a permanent workman nor he had any continuity of service. The allegation that he was paid Rs. 35 per day is not correct. His stipend was not enhanced to Rs. 58.44. The workman misappropriated the funds of the management. He was caught red-handed on 23-5-1987. He admitted misconduct and he did not turn up for work from that day onwards. He has not raised any demand on the management. The management has not refused employment. After 1-1/2 months he approached Joint Secretary of the CITU who in turn addressed a letter to the management claiming terminal benefits. No disciplinary action was taken against the workman as he voluntarily abandoned the service of the management. The management lost confi-

dence in the workman. The management cannot engage the workman on any job involving cash or monetary transactions. After protected negotiation, the matter was settled on 14-12-1988 and thereby it was agreed to provide the workman an alternative job from 1-1-1989. But the workman did not report for duty on 1-1-89 or subsequently. The allegations that the workman was orally told to work as a menial servant or to do the work such as sweeping the container and carrying wire lamps cable from the Island Office of the management to the wharf area on shoulder and giving light connections to the container are false. The workman did not turn up for work on 1-1-1989 or subsequently, as per the terms of the said settlement. There is no denial of employment to the workman. His allegations are baseless and unfounded. The workman was not inclined to accept any other alternative job except issuing chits. The management has no confidence to entrust him the job of issuing chits. The Joint Secretary of the union never joined hands with the management. The alleged denial of employment from 23-5-1987 to 31-12-1988 was settled. By virtue of the settlement dated 14-12-1988 the management was ready and willing to provide him suitable employment. He failed to report for duty. The workman was not a foreman and so there was no question of offering him the work of a foreman. It is understood that the workman is gainfully employed. So he is evading the settlement. The alleged resignation of the workman from the union is with mala fide intention to re-open the issue which has already been settled. The service of the workman was not terminated at any time. The management offered alternative employment to the workman from 1-1-1989. But he did not accept the offer alleging that the work offered to the workman was not that of the work of the foreman. He did not come for work to see the nature of work offered to him. The management never agreed to pay legal dues under the Act. For the service of the workman from 15-10-1984 to 23-5-1987 no amount is legally due to the workman. The management has not agreed for anything except what is contained in the memorandum of settlement. The workman is not entitled to gratuity or terminal benefits of any kind. The allegation of the workman that he was only a foreman and he was supervising the stevedoring workers is not true. Foreman, Supervisors, General purpose mazdoors etc. are employed from a pool run by the Administrative Committee, United Stevedors Association of Cochin Pvt. Ltd. Those foreman are arranging the work on board the vessels and other working points. The workman was paid bonus though he is not eligible for the same. He is not entitled to interim relief at the rate of Rs. 333 per shift. No arrears of wages are due to the workman. Hence the management prayed for upholding their contentions.

4. The workman filed a reply statement refuting the contentions raised by the management in their written statement. He further denied the genuineness of the settlement dated 14-12-1988. It is alleged that the alleged settlement dated 14-12-1988 is a document manufactured by the Joint Secretary of the union and the management subsequent to the present reference to this court.

5. The material points for consideration are :

- (1) Whether the alleged denial of employment is true and correct. If so, the same is justifiable?
- (2) The reliefs if any, entitled to the workman herein?

6. The evidence in this case consists of the oral testimony of WW1, WW2 and MW1 and Exts. W1 to W9. No documentary evidence was adduced on the side of the management.

7. Points 1 and 2.—According to the workman he was working as a foreman under the management from 15-10-1984 and while he was working as a foreman on 2612 GI/92—

23-5-1987, he was denied employment by the management. It is alleged by the workman that on 23-5-1987, he was served with a chargesheet alleging misappropriation of the funds of the management firm, that he submitted the explanation on 25-5-1987 denying the charges levelled against him. But the management denied him employment from 23-5-1987 onwards. On the other hand the case of the management is that the workman herein was not a foreman but he was a trainee engaged on trial basis. It is further contended that the workman was paid stipend of Rs. 28.22 per day shift and Rs. 30.22 per night shifts. The further contentions of the management is that on 23-5-1987 the workman was caught red-handed and thereby chargesheeted was framed against the workman and thereby the workman abandoned the employment voluntarily. The management has also set up the case of settlement entered into between the management and the union of which the workman was a member. According to the management a memorandum of settlement was entered into between the management and the union on 14-12-1989 and thereby the management agreed to provide him an alternative job from 1-1-1989. The further case of the management is that they were ready and willing to provide him a suitable employment from 1-1-1989 onwards, but the workman did not report for duty on 1-1-1989 or subsequently. The management has also stated in the written statement that the workman did not accept the job offered by the management on the ground that the workman offered to him as not that of a foreman's work. Thus the management opposed the case of denial of employment.

8. The workman Shri Kishore entered into service of the management on 15-10-1984. The fact that the workman herein was appointed for employment on 15-10-1984 is an admitted fact. It is also an admitted fact that he worked under the management till 23-5-1987. The case of the management is that the workman herein was not a foreman but he was appointed as a trainee engaged on trial basis. But it is strange to note that the management has not stated the class or the post to which the workman herein was undergoing training. But the statement in the written statement filed by the management would show that the workman herein was doing the work of a Supervisor. The management has no case that the workman herein was doing the work of a casual labourer. It is categorically admitted in the written statement that the workman was doing the work of issuing chits to the workers. On the other hand the workman herein is definite in his case that he was appointed as a foreman and he was a trainee for a period of 15 days and thereafter he was working as a permanent foreman under the management.

9. One of the partners of the management firm was examined as MW1. He categorically deposed that there were other workmen in the management firm doing the same type of work which was done by workman herein. He has admitted that the workmen by name Noushad, Sunny, Benuu, Xavier are also doing the same type of work which was done by the workman herein. He further admitted that the above said 4 persons are engaged by the management as a representative of the management in the wharf where Stevedoring operations are being done. Thus it is clear that the workman herein namely Shri Kishore was acting as a representative of the management at the wharf. MW1 has admitted that the management firm is a concern registered under the Shop Act. There are registers and other documents maintained in the management firm as provided in the said Act. He further admitted that wage register of employment etc. are maintained by the management firm. But the management has not produced those registers to support their case that the workman herein was not a foreman and he was only a trainee. The production of those registers would have shown the real fact regarding the post to which the workman herein was appointed. The management has also contended that they have no foreman after 1983. If that be the case, the production of registers of employment and wage register should have established the said case of the management. On the other hand the workman as WW1 has deposed that there are foremen under the management and the foremen are supervising the workers who are engaged in the stevedoring operations. He has also admitted the fact that there will be a foreman and supervisor employed from the pool run by Administrative Committee

United Stevedors Society, Kochi. The testimony of WW1 is supported by the evidence of WW2. This witness is a supervisor under the above said administrative committee, United Stevedors Association of Cochin. This witness has categorically deposed about the engagement of foreman by Stevedoring company like the management concern. The evidence of WW2 would also reveal the fact the workman herein was working as a foreman under the management and he was supervising the workers who were doing the stevedoring operation. There is nothing on record to disbelieve the testimony of WW-2. Thus the oral evidence on record would give a clear indication that the workman herein was working as a foreman under the management.

10. The case of the management that he was working as a trainee through out his service i.e. from 15-10-1984 upto 23-5-1987 cannot be accepted. MW1 has deposed that training period will last only for one or two years. If that be so, there is no reason to engage the workman herein as a trainee even after the expiry of 2 years. It is highly improbable to believe that the workman herein was continuing as a trainee for a period of 3 years. It is an admitted fact that the management has not issued any appointment order to the workman. MW1 has admitted the fact that the workman was not issued any order for his appointment as a trainee. MW1 has also admitted that the management company is not having the practice of issuing appointment orders while making appointments. So necessarily there will be no documents with the workman to show that he was confirmed in service as a foreman. On the other hand there will be documents with the management to show the category in which the workman herein was working. But the management has not produced any piece of evidence to substantiate to the case that the workman was working as a trainee for a period of 3 years. Ext. W8 photostat copy of the requisition letter issued from the management concern would support the case of the workman herein. MW1 has admitted that W8 requisition was issued by him for the purpose of permitting the workman to enter the wharf. He has admitted his signature affixed on Ext. W8 requisition. But his case is that the writing of the word 'Foreman' was not written by him. But his case is that usually in the requisition only the word 'Worker' will be written. But it is to be noted that in W8 requisition, there is no such writing 'worker'. In this circumstance it can be inferred that the W8 requisition was issued by the management specifying the designation of the workman herein as foreman. Hence I have no hesitation to hold that the workman herein was working as a foreman under the management. He was doing the same work as that of the other workmen namely Xavier, Noushad, Sunny and Benny. At any rate it can be concluded that the workman herein was acting as an agent of the management at the wharf of the Cochin Port Trust where Stevedoring operations are being done. It can also be concluded safely that the workman herein was not a casual labourer.

11. On 23-5-1987 the management chargesheeted the workman alleging misappropriation of funds. Ext. W1 is the said charge sheet dated 23-5-1987. The workman herein submitted his explanation to the said chargesheet. Ext. W2 is the copy of the said explanation submitted by the workman. In the said explanation, the workman denied the charges of misappropriation alleged against him. It is an admitted fact the management has not taken any disciplinary action, on the basis of the said chargesheet dated 23-5-1987 that no domestic enquiry was conducted in this matter. The workman was not dismissed or removed from service on the ground of misappropriation. The case of the management is that on 23-5-1987 onwards the workman voluntarily abandoned the employment. On the other hand the workman would contend that from 23-5-1987 onwards, the management denied employment to him. It is improbable to believe the case of the management that the workman voluntarily abandoned the employment. The subsequent conduct of the workman and the management would only support the case of the workman that the management denied employment to him. If really the workman voluntarily left the service of the management; then he would not have moved the union namely Cochin Thrumugha Thozhilali Union for his reinstatement. It is an admitted fact that the workman herein was a member of the said union and the workman moved the Joint Secretary of the union by his letter dated 7-7-1987 to take up the matter. It is also an admitted fact that the union started negotiation with the management and they failed in that attempt. The union sent a letter dated

17-2-1988 to the Assistant Labour Commissioner, Kochi (Central) requesting interference in the matter. So this conduct of the workman after the alleged denial of employment on 23-5-1987 would give an indication that the management denied employment to the workman herein.

12. Ext. W5 failure report submitted by the Assistant Labour Commissioner, Central, Ernakulam would give an indication that the management denied employment to the workman on 23-5-1987 onwards. A perusal of W5 failure report would show that the stand taken by the management at the conciliation proceedings was that the management terminated the services of the workman on the ground of misappropriation. Para 2 of the W5 failure report would reveal this fact. The workman as WW1 has also deposed about the stand taken by the management at the conciliation proceedings. The witness from the side of the management namely MW1 has denied the statement made by the conciliation officer in W5 report. There is no ground to disbelieve the statement made by the conciliation officer in his failure report (W-5). So these circumstances would strengthen the case and the workman that the management denied him employment from 23-5-1987.

13. The Management has not proved the alleged misconduct of the workman. Admittedly no domestic enquiry was conducted to enquire into the charges alleged in W1 chargesheet dated 23-5-1987. Before this court also the management has not adduced any acceptable evidence to prove the alleged charge of misappropriation of funds. So there will be no justification in terminating the workman from service on the more allegation of misappropriation of funds.

14. The workman has stated that the Joint Secretary of his union interfered in the matter and at the direction of the Joint Secretary he reported for duty on 1-1-1989. But he has not admitted the existence of any settlement said to have been entered into between the management and the union. But the definite case of the workman is that he reported for duty on 1-1-1989 as directed by the Joint Secretary of the Cochin Thrumugha Thozhilali Union. His further case is that when he approached the Managing Partner of the management firm, he was directed to do menial job such as sweeping the container, bringing light cables on his shoulders etc. According to the workman he was not expected to do such menial job, but he is only bound to the work of foreman. And thereby he refused to do menial job. If the said version the workman is true and correct, then he is justified in refusing the said employment offered by the management. WW1 is definite in his case that he reported for duty on 1-1-1989 and the Managing Partner directed him to do the menial job. But there is no contra evidence on the side of the management. The Managing Partner was not examined in this case. Admittedly the Managing Partner is available for adducing contra evidence. The case of the management that 1-1-1989 was holiday for the management concern cannot be believed. The management has no such case in their written statement. MW1 has admitted that the management concern is having holiday register. So the production of that register would have shown the fact whether 1-1-1989 was holiday or not. On the other hand MW1 has admitted that 1-1-1989 was a working day for the Cochin Port Trust. He was not in a position to give a definite answer to the question whether the stevedoring operations of the management concern were done at the wharf on 1-1-1989. So these circumstances would support the case of the workman that on 1-1-1989, he reported for duty as directed by the Joint Secretary of the Union, that he was directed by the Managing Partner of the management firm to do menial job. So the said action of the management will tantamount to denial of employment.

15. The definite case of the management is that the present dispute was already settled by the memorandum of settlement dated 14-12-1988 entered into between the management and the union. But there is no acceptable evidence other than interested testimony of MW1 to show that there was a settlement dated 14-12-1988 entered into between the management and the union. But the oral testimony of MW1 would show that there is no such settlement in the eye of law. Section 2(n) of the I.D. Act defines settlement. It prescribes forwarding the copy of the settlement to the authorised officer and the conciliation officer. The rule 58 of the I.D. (C) Rules prescribes the mode of preparing of Memorandum of settlement. The Rule 58(4) prescribes

forwarding of copies of the settlement to the Central Government, the Chief Labour Commissioner (Central) and the Assistant Labour Commissioner (Central) concerned. The rule prescribed that the settlement is to be prepared in form M. But in the present case on my hand there was no such settlement as prescribed in rule 58 of the I.D. (C) Rules. MW1 has no case that the management has prepared the settlement in the prescribed form and the copies of the said settlement were forwarded to the concerned authorities enumerated in rule 58(4). It is held by the Honourable High Court of Delhi in the case of "Co-operative Stores Ltd., v. Vedaprakash Bhambri" reported in 1990-1 LLJ 119 that the rule 58 of the I.D.(C) Rules 1957 and form H are statutory provisions; that it have to be given full affect before the settlement could be considered valid. So I have no hesitation to hold that there is no such settlement entered into between the management and the union. It is further to be noted that MW1 is not a party to the said settlement. Even according to him the managing partner P.H. Sadiq represented the management in the alleged memorandum of settlement. But the Managing Partner has not come forward to say about the alleged settlement entered into between the management and the union. Hence I have no hesitation to hold that there is no valid and enforceable memorandum of settlement entered into between the management and the union. If that be so, the case of the management that the matter has already been settled and so the present I.D. is not maintainable cannot be upheld.

16. I have already come to the conclusion that the management has denied employment to the workman without any reasonable ground. So the workman herein is entitled to reinstatement. But the facts and circumstances of the case would show that the workman herein was prepared to do the work of foreman from 1-1-1989 onwards as directed by the Joint Secretary of the union. It would give an indication that the workman had settled the dispute regarding the denial of employment from 23-5-1987 till 1-1-1989. So the claim of the workman for back wages with effect from 23-5-1987 cannot be allowed. This court is of the view that the workman herein is entitled to full backwages and all other benefits with effect from 1-1-1989 onwards. It is made clear that the workman is entitled to his wages on the basis of the subsequent wage revision effected in the management concern. It is an admitted fact that the management issued chargesheet on 23-5-1987 alleging misappropriation of funds. The management has contended that they have lost confidence in the workman and so they are not in a position to entrust the work involving money transaction. They categorically contended that the workman cannot be entrusted with the work of issuing chits to the stevedoring workers. So it is made clear that the workman cannot insist for the work of issuing chits to the workers. But he is expected to do the other works that are to be done by other foreman of the management concern.

17. In the result, I hold that the action of the management in denying employment to the workman herein is not justifiable. The management is directed to reinstate the workman with continuity of service, full back wages and other benefits. The workman is entitled to get full backwages and other benefits, only from 1-1-1989 onwards. An award is passed accordingly.

Ernakulam,
4-09-1992.

M. V. VISWANATHAN, Presiding Officer.

Appendix

Witness examined on the side of Management :
MW1. Shri. Hence.

Witness examined on the side of Workman :
WW1. Shri. Kishore.
WW2. Shri. Viswambharan.

Exhibits marked on the side of Workman :

Ext. W1. Charge sheet dated 23-5-1987 issued by Management to the workman.

Ext. W2. Explanation dated 25-5-87 submitted by the workman.

Ext. W3. Copy of letter dated 14-2-89 addressed to the Joint Secretary, CITU by the workman.

Ext. W4. Copy of letter dated 20-2-1989 addressed to the Assistant Labour Commissioner (Central), Cochin by the workman.

Ext. W5. Minutes of the Joint discussions and conciliation proceedings dt. 18-5-89 between the Management and the workman before the Asst. Labour Commissioner (Central) Cochin.

Ext. W6. Copy of letter dated 17-4-89 sent to the Asst. Labour Commissioner(C) by the workman.

Ext. W7. series (53 Nos.) Daily returns of United Stevedors Association (P) Ltd.

Ext. W8. Photo copy of requisition issued by the Management to the wharf Superintendent.

Ext. W9. Failure Report of Regional Labour Commissioner (Central).

नई दिल्ली, 12 अक्टूबर, 1992

का. आ. 2815.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, बंगलौर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/10/92 को प्राप्त हुआ था ।

[संख्या एल—30012/29/88-डी-III (बी)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 12th October, 1992

S.O. 2815.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore-9 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Petroleum Corpn. Ltd. Belgaum, and their workmen, which was received by the Central Government on the 11-10-1992.

[No. L-30012/29/88-D.III (B)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, BANGALORE

Dated this 30th day of September, 1992

Present

Shri M. B. Vishwanath,
B.Sc., LL.B.,

Presiding Officer.

Central Reference No. 3/1989

I Party

Shri Iragouda S. Patil,
C/o Shri Ram Apte,
Advocate,
Shoshan Mukti Dal,
1668/3, Ramling Khind,
Belgaum-2.

V/s.

II Party

The General Manager,
M/s. Hindustan Petroleum Corporation Ltd.,
Hindustan Bhavan,
Bombay-400038.

AWARD

In this reference made by the Hon'ble Central Government by its order No. L-30012/29/88-D. III(B) Dt. 26-12-1988

under Sec. 10(1)(d) of I.D. Act 1947, the point for consideration as per schedule is :

"Whether the action of the management of M/s. Hindustan Petroleum Corporation Ltd., Belgaum in discharging Shri Ira Gowda S. Patil, General workman from service with effect from 15-10-1987 is justified? If not, to what relief the said workman is entitled?"

2. In the claim statement it is contended :—

The I party workman was in continuous service from 11-7-84 to 15-10-87. He was working as a general worker at Belgaum. On 30-10-1986 the workman had been on duty as general workman (cleaner) on tank truck No. MEL 6983. One Shri B. M. Mujawar was driver on that truck. It was alleged against the workman and the said driver B. M. Mujawar that they had tampered with the (valve) seals of compartment Nos. 2 and 3 of the Tank Truck No. MEL 6983 and pilfered 30 litres of diesel from the said tank truck. The workman and the driver were pressurised to admit the charges. They were forced to give admission in writing. They were promised that nothing would happen if they gave the admission in writing. A departmental enquiry was held against the I party workman. The I party workman was ultimately discharged, though he was promised no action would be taken against him. This workman, a cleaner, was not at all responsible for the alleged theft of 30 Lts. of diesel. It was the driver Mujawar who was solely in charge of the tank truck. The I party had not committed the alleged misconduct. The alleged admission made by the I party workman was not voluntary. The punishment of discharge of the I party workman from the service is illegal. The I party workman is entitled to be reinstated with full back wages and continuity of service.

3. The counter statement which was originally filed has been amended on 17-6-89 and para 6(a) has been added. In the counter statement it is contended :—

Both the driver Mujawar and the present I party workman (cleaner) tampering with the valve seals of compartment Nos. 2 and 3 of the tank truck had committed theft of 30 Lts. of diesel when it was parked at Yeragatti. Both of them have admitted that they committed theft of 30 Lts. of diesel. A separate enquiry in respect of this incident of theft against the driver Mujawar and the present I party workman was conducted. Both admitted their guilt in the departmental enquiry. The enquiry authority submitted report against the I party giving a finding that the I party was guilty of the charge. The disciplinary authority issued a show-cause notice to the I party workman why he should not be dismissed from service. The I party workman gave reply to the show cause notice against pleading guilty of the charge and requested for a lenient view. The disciplinary authority, considering the gravity of the offence, ordered discharge of the I party from service. (Driver also was discharged). If the D.E. held against the I party workman is not fair and proper the II party may be permitted to lead evidence to substantiate the charge against the I party.

4. My Learned Predecessor has framed the preliminary issue :

"Whether the II party proves that it has held the D.E. in accordance with law?"

5. On D.E., on behalf of the II party M.W.1 S. C. Nanda, Senior Manager has been examined. On behalf of the I party he has got himself examined and closed his case.

6. My learned predecessor by his considered order dt. 25-8-89 has held on the preliminary issue that the D.E. is in accordance with law and has directed the parties to adduce evidence, if any on the rest of the points.

7. Subsequent to the order on D.E. the I party got himself further examined.

8. I have permitted recalling of the I party workman to get himself examined after the orders on D.E. on the preliminary issue because my learned Predecessor had clearly permitted in para 12 of his order on D.E. to adduce evidence if any on the rest of the points.

9. Ex. WW. 1 is the xerox copy, shows that the enquiry was held against the driver Mujawar on 19-3-87. Ex. M. 5 shows that the enquiry against the present I party workman cleaner was held on 20-3-87. Ex. W. 5 is the charge sheet issued to the driver and it is dated 5-12-86. M.6 is the charge sheet issued to the I party workman and it is also dated 5-12-86. In respect of the enquiry against the driver, it is seen from Ex. W. 1 that he accepted the accusation and pleaded guilty on 19-3-87. It is argued by the learned counsel for the I party that when once the driver pleaded guilty, enquiry against the I party workman cleaner should not have been held on 20-3-87. He argued that when the driver accepted the guilt, the cleaner could not have been held responsible for the theft of diesel. The Learned counsel further argued that the I party workman should not have been charge sheeted and that the admission made by the I party workman in the D.E. held against him has no relevance. Since my learned Predecessor has already held that the D.E. against the I party workman was fair and proper, it is not now open to me to go behind the order passed by my learned Predecessor.

10. The Learned counsel for the I party relied on the decision of the Bombay High Court reported in 1991 I.C. L.R. Bombay 147 (Bhavani Metal works v/s. Pandurang R. Swamy and ors.) and submitted that the Tribunal should again examine afresh the question whether misconduct alleged against the I party workman was proved. I have carefully and respectfully read the decision. It is clear from the decision that the Labour Court found the D.E. was fair and proper but did not apply its mind to the question whether the report made by the E.O. was correct or not on merits. It is obvious from the decision that the Labour Court had not gone into the question whether the findings given in the report made by the E.O. holding the D.E. was proper were perverse or not.

11. Since the D.E. against the I party has been held fair and proper, what the Tribunal has to do now is to see whether the finding given by the E.O. as per report Ex. M. 10 holding that the charge against the I party was proved is perverse, whether there is any victimisation and whether the punishment is proportionate or disproportionate to the magnitude of the charge.

12. As has already been stated Ex. M.10 is the report of the enquiry held against the I party workman cleaner (helper). E.O. came to the conclusion that the charge of theft and misconduct (acts subversive to discipline) were proved. It is clear from Ex. M. 10 that the I party workman had admitted the charges against him. It is further clear that the enquiry officer has relied on letter dated 31-10-86 (Ex. M. 8) written by the I party to the Depot Superintendent in which the I party workman who was defended by a defence representative had confirmed having written that letter. He had also confirmed the contents therein. It is clear that the E.O. has relied on relevant and admissible material. The I party himself has admitted the guilt before the E.O. I am of opinion that the enquiry report Ex. M. 10 cannot be said to be perverse.

13. So far as victimisation is concerned, there is absolutely no material to show that the II party has victimised the I party workman.

14. What remains is the adequacy of punishment. The I party workman (cleaner) and the driver had committed theft of 30 Lts. of diesel worth Rs. 150 then. Apart from the misconduct in question, there is no past misconduct by the I party workman. It has been laid down by the Hon'ble Supreme Court in AIR 1989 S.C. 149 (Scooter India Ltd., v/s. Labour Court) at page 151 that justice should be tempered with mercy and that the erring workman should be given an opportunity to reform himself and prove to be loyal and disciplined employee. Bearing in mind that there was no past misconduct and the value of the property

committed theft of was hardly Rs. 150 and the Law laid down by the Hon'ble Supreme Court, I am of opinion that the punishment of discharging the I party workman is disproportionate and harsh. If there is substantial reduction in the back wages, that itself will be adequate punishment to the I party workman.

15. All other documents and evidence not referred to by me are not relevant. In any case they do not alter the conclusions reached by me above.

ORDER

The II party is directed to reinstate the I party workman forthwith with continuity of service.

The I party workman is granted 25 per cent of back wages.

Reference accepted as stated herein and award passed accordingly.

No costs.

(Dictated to Stenographer, typed by him, corrected and signed by me).

M. B. VISHWANATHI, Presiding Officer

नई दिल्ली, 16 अक्टूबर, 1992

का. आ. 2816 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण नं. केन्द्रीय सरकार बाम्बे पोर्ट ट्रस्ट बाम्बे क प्रबन्धन के सबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2 बाम्बे के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-10-92 को प्राप्त हुआ था।

[संख्या एल/31012-12-90-आई आर (मिस.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 16th October, 1992

S.O. 2816. In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bombay Port Trust, Bombay and their workmen, which was received by the Central Government on the 15-10-92.

[No. L-31012/12/90-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri P. D. Apshankar, Presiding Officer.

Reference No. CGIT-2/33 of 1990

PARTIES :

Employers in relation to the Management of Bombay Port Trust, Bombay.

AND

Their Workman

APPEARANCES :

For the Employer.—Shri M. B. Anchan, Advocate.

For the Workman.—No Appearance.

INDUSTRY : Port & Docks

STATE : Maharashtra

Bombay, dated the 1st October, 1992

AWARD

The Central Government by their Order No. L-31012/12/90-IR(Misc.) dated 26-10-1990 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947.

"Whether the action of the Management of Bombay Port Trust, Bombay in terminating the services of Shri Ram Rao Namavarapu, ex 'A' Category Mazdoor, I/C No. 1373 in Dock Deptt. w.e.f. 4-7-1983 is justified? If not, to what relief is the workman entitled?"

2. The case of the said workman as disclosed from Statement of Claim (Ex. 2) filed on his behalf by the Secretary of the Bombay Port Trust Employees Union, in short, is thus :

The said workman was appointed as a 'C' Category Mazdoor in the Docks Department of the B.P.T. in July 1977. He was in continuous service of the B.P.T. Management. However, the management of the B.P.T. struck his name off the muster roll with effect from 4-7-1983 in violation of the principles of the natural justice, and without complying with the provisions of section 25F of the I.D. Act. The workman informed the management about the circumstances under which he was compelled to remain away from his duty, and submitted the Medical Certificates in respect of his serious illness. He made repeated requests to the management to allow him to rejoin his duty. However, the management rejected his requests. The Union, therefore, prayed that the action of the management in question be held as unjust and improper, and that this Tribunal should direct the management to reinstate the workman in service with effect from 4-7-1983 with full back wages and the continuity of service.

3. The Secretary of the B.P.T. by his Written Statement (Ex. 3) opposed the said claim of the Union, and in substance contended thus :—

The said workman was appointed as a 'C' Category Mazdoor in the Docks Department of the B.P.T. in July 1977. In due course he was promoted as 'A' Category Mazdoor. Since 1981 his leave record was very poor and he unauthorisedly remained absent on several occasions. In the year 1981 he had taken 17 days earned leave and 163 days leave without pay. In the year 1982 he had taken 5 days earned leave and 8 days half pay leave and 227 days leave without pay. In the year 1983 he has taken 10 days leave without pay. In the year 1983 he has taken 10 days earned leave and 29 days leave without pay. In the month of April 1983 he had applied for 10 days earned leave from 4-7-1983 to 13-7-1983 and the same was granted to him. However, on expiry of the said leave he did not resume duty and overstayed the leave sanctioned without any intimation. Since he had unauthorisedly remained absent, he was issued with call up Memo on 22-8-1983 calling upon him to resume duty or to send medical certificate in case he was sick. The memo was returned by the Postal authorities unserved. Since no response was received to the memo a final show cause notice was issued to him on 29-10-1983 at his local as well as native place addresses directing him to report for duty within three days from the receipt thereof, or in case his absence is caused by ill-health, to produce medical certificate, failing which, to show cause within three days as to why he should not be deemed to have abandoned the contract of employment and his name struck off the muster roll with effect from 14-7-1983. The said show cause notice was also returned unserved by the Postal authorities. Since no response was forthcoming from the workman despite the best efforts made

by the management by sending notices to him on the available addresses, his name was struck off the Muster Roll treating that the worker had voluntarily abandoned the contract of employment with effect from 4-7-1983 i.e. the date from which he was absent on leave. He was accordingly informed of the same vide Memo dated 20-12-1983. The said memo was received by the worker at his native place address on 24-12-1983. Subsequently, the worker by his letter dated 17-2-1984 forwarded two medical certificates from a Private Doctor stating that he was under medical treatment and requesting the Department to allow him to resume his duties. Since the name of the worker had already been struck off the Muster Roll, as stated above, his request for allowing him to resume duties was rejected. The worker again by his letter dated 16-6-1984 requested the Dy. Manager Hamalage for reinstatement stating that he was sick during the relevant period, and that his case should be considered on compassionate ground. Since his name had already been struck off the Muster Roll, his request was rejected and he was informed accordingly by the Dy. Manager's memo dated 27-7-1984. Subsequently by his letters dated 17/22-7-1986 and 30-1-1987 the workman had requested the Department to settle his dues. From this it is clear that the workman was not interested in the employment and that he had voluntarily abandoned the contract of employment. However, the B.P.T. Employees' Union vide its letter dated 11-12-1987 has raised the present dispute with the Assistant Labour Commissioner (Central), Bombay. Since there was no settlement before the Assistant Labour Commissioner, he recorded his failure report and submitted the same to the Government. Hence the present reference. The BPT Management did not terminate the services of the said workman, and as such, did not commit any violation of the provisions of section 25F of the Industrial Disputes Act. The workman himself had voluntarily abandoned the services of the BPT, and as such he is not entitled to claim any relief. The BPT management therefore lastly prayed for the rejection of the prayer of the Union.

4. The Issues framed at Ex. 4 are :—

- (1) Whether the services of the workman were terminated by the management of Bombay Port Trust without complying with the provisions of Section 25F of the Industrial Disputes Act ?
 - (2) Whether the workman himself had voluntarily abandoned the contract of employment with the Bombay Port Trust with effect from 4-7-1983 ?
 - (3) Whether the action of the Management of Bombay Port Trust, Bombay, in terminating the services of Shri Ram Rao Namavarapu, ex 'A' Category Mazdoor, I/C No. 1373 in Dock Deptt. w.e.f. 4-7-1983, is justified ?
 - (4) If not, to what relief is the workman entitled ?
 - (5) What Award ?
5. My findings on the said Issues are :—
- (1) Does not survive.
 - (2) Yes.
 - (3) The Bombay Port Trust Management had struck off the name of the workman from the muster roll.
 - (4) Nil.
 - (5) Award as per below.

REASONS

6. The said Issues were framed on 18-4-1991. The workman has challenged the validity and legality of the action in question of the Bombay Port Trust Management, and as such, the burden lay upon him to prove the alleged illegality and invalidity of that action. However, the workman and the Union continuously remained absent from 3-1-1992 till the last date of the proceedings, i.e., 18-4-1992.

As such, no evidence was led on behalf of the Union. Therefore the Union has failed to prove the alleged illegality and invalidity of the action in question of the Bombay Port Trust Management.

7. However, Shri M. G. Deshmukh, the Assistant Decks Management of the Bombay Port Trust filed his affidavit (Ex. 5) in support of the case of the Bombay Port Trust Management, as above. As the workman and the Union remained absent, what the said witness stated in his affidavit, has gone unchallenged. As such, I see no reason to disbelieve any of the statements made by the management witness in his affidavit. Therefore, I accept the statements made by the witness in his affidavit, and find that the said workman had himself abandoned the services of the Bombay Port Trust, and that the Bombay Port Trust Management had only struck off his name from the muster roll with effect from 4-7-1983, and that the said action in the circumstances of the present case was just and proper, and there was no question of the violation of the provision of Section 25F of the Industrial Disputes Act, and as such the workman is entitled to no relief. Issue No. 1 to 4 are, therefore, found accordingly.

8. The following Award is, therefore, passed :—

AWARD

The action of the management of the Bombay Port Trust, Bombay, in striking off the name of the workman Shri Ram Rao Namavarapu from the muster roll with effect from 4-7-1983, is just and proper.

The parties to bear their own costs of this reference.

P. D. APSHANKAR, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 1992

का. आ. 2817.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ ट्रान्स्कोर के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, कोझिकोड के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-92 को प्राप्त हुआ था।

[संख्या एल—12012/99/91—आई आर बी.-3]

एस. के. जैन, डेस्क अधिकारी

New Delhi, the 14th October, 1992

S.O. 2817.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, Kazhikode as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of Travancore and their workmen, which was received by the Central Government on the 7-10-92.

[No. L-12012/99/91-IR B.III]

S. K. JAIN, Desk Officer

IN THE LABOUR COURT, KOZHICODE,
KERALA STATE

Dated this the 15th day of September, 1992

PRESENT :—

Shri K.G. Gopalakrishnan, B.A., B.L., Presiding Officer

I.D. (C) 1/91

BETWEEN :—

The Managing Director,
State Bank of Travancore,
Head Office Poojappura, ... Management
Trivandrum-695001.

AND :—

The General Secretary,
State Bank of Travancore Employees
Union, Central office, P.B. No. 157,
Trivandrum-695001. ... Union

REPRESENTATIONS :—

Sri K.P. Damodaran Nambiar,
Advocate, Kozhikode. ... for Management
Sri K. Bhaskaran Nair, Advocate,
Kozhikode. ... For Union

AWARD

By the Order No. L-12012/99/91-IR B III dated 31-5-1991 the Government of India has referred the dispute between the aforesaid parties in connection with the dismissal of an employee by name E. Balan, Head Cashier to this court for adjudication under Section 10(1)(c) of the Industrial Disputes Act.

2. After the receipt of the reference order pursuant to the notice issued from this court both the union and the management entered appearance and filed claim statements setting forth their stand in the dispute. The brief averments in the statement filed by the union are as follows:—The workman Sri E. Balan joined the service of the management bank in 1980 and during 1987 he was working as Head Cashier in the Sulthan Battery Branch of the management bank. While so he was transferred to Hosdurg Branch. While he was working in Hosdurg he received a show-cause notice dated 2-7-1987 from the management alleging that he has misappropriated a sum of Rs. 1634/- from a total sum of Rs. 1746/- given by one A.N. Joseph for exchange. This allegation is absolutely false and the workman has not misappropriated any amount. So the workman has given a reply to the show-cause notice pleading innocence. But however, the management conducted a domestic enquiry in this matter and the Manager of the Sulthan Battery Branch was appointed as Enquiry Officer. This enquiry was really a false as Enquiry Officer was biased against the workman. The enquiry was in fact conducted without giving any opportunity to the workman to state his case and defend himself. The Enquiry Officer as violated principles of natural justice. Later the Enquiry Officer gave a report to the management holding the workman guilty of this charge and basing on the report the workman was dismissed from service by the management. This action of the management is illegal since first of all the workman has not committed any misconduct as alleged. Secondly there was no evidence at all before the Enquiry Officer to hold the workman guilty and hence the finding of the Enquiry Officer holding the workman guilty is perverse. Hence relying on that perverse finding the management should not have punished the workman. Hence an award may be passed setting aside the order of dismissal and direct-

ing the management to reinstate this workman in service with backwages and continuity of service.

3. The brief averments in the statement filed by the management are as follows:—It is true that the workman who is working as a Head Cashier in the management bank was dismissed from service. But he is dismissed as he has committed a serious misconduct. On 16-1-1987 one customer by name A.M. Joseph handed over certain mutilated notes the total value of which comes to Rs. 1746/- for exchange to the workman. The workman exchanged only for Rs. 112/- and the balance of Rs. 1634/- was misappropriated. Thus the workman has committed a serious misconduct. Even the management bank did not dismiss him from service straight away and he was dismissed only after conducting a domestic enquiry in which he was given full opportunity to state his case and defend himself. The allegation in the statement filed by the workman that this enquiry was conducted violating all norms of natural justice is absolutely false. Later the Enquiry Officer gave a report to the management holding the workman guilty. Thus as the workman is found guilty of serious misconduct the management has no other option but to dismiss him from service especially when the misconduct proved against him being of a serious nature. Hence an award may be passed upholding these contentions of the management.

4. On these pleadings the following points are formulated for decision :—

- (1) Whether the enquiry conducted by the management is valid and legal ?
- (2) Whether the finding of the Enquiry Officer holding the workman guilty is based on legal evidence and whether it is sustainable in law ?
- (3) What is the proper punishment if any to be awarded to the workman ?
- (4) Result ?

5. The evidence consists of the oral testimony of MW1 and the documents marked as Exts M1 to M4..

6. Point No. 1:—This point pertaining to the validity of domestic enquiry was considered by me as a preliminary point by my order dated 30-4-1992. holding that the enquiry is valid and legal.

7. Point No. 2:—Thus as the domestic enquiry conducted by the management is found to be valid and legal, the only question that arises for consideration is whether the finding of the Enquiry Officer holding the workman guilty is based on legal evidence. As stated earlier the charge against the workman is that on 16-1-1987 a customer by name A.M. Joseph approached the workman who is working as Head Cashier of the Sulthan Battery Branch of the management bank for exchanging the mutilated notes and certain mutilated notes the total value of which comes to Rs. 1746/- was handed over to the workman for being exchanged. The workman instead of giving new notes gave this customer only few new notes the total value of which

comes to Rs. 112/- and the balance Rs. 1634/- was misappropriated by him. According to the management this is done by the workman making the customer believe that the balance amount Rs. 1634/- will have to be sent to the Reserve Bank, Trivandrum for exchange. The Enquiry Officer after analysing the evidence tendered by the management before him held the workman guilty of this charge. Now the short question is only whether this particular finding is sustainable. The workman has admitted in his reply to show-cause notice marked as Ext. M 17 before the Enquiry Officer that the customer by name A.M. Joseph came to him on 16-1-1987 and has handed over a sum of Rs. 1746/- to him for being exchanged. But his case is that he has exchanged Rs. 112/- immediately and the balance was handed over to the customer himself since the customer has agreed to send the balance amount direct to the Reserve Bank, Trivandrum. So the crux of the question is whether the stand of the workman is true.

8. The case of the management is that the balance amount of Rs. 1634/- was misappropriated by the working making the customer believe that it will take a long time to get these notes exchanged from the Reserve Bank, Trivandrum. To prove this the counsel for the management has relied on the 5 complaints sent by this Joseph to the management bank on 19-5-1987, 29-6-1987, 1-9-1987, 13-1-1988 and 11-3-1988 which are respectively marked as Exts. M1, M14, M15, M18 and M19 before the Enquiry Officer. In these complaints it is seen specifically stated by Joseph that he has handed over notes valuing Rs. 1746/- to the workman and the workman has given him only new notes worth Rs. 112/-. The workman has no case at all that this Joseph has any enmity to him. Cr. in other words even according to the workman this Joseph is a stranger to him and that he has no enmity to him. This being the position as rightly observed by the Enquiry Officer why should a person who has no enmity at all to the workman gave a false complaint against the workman saying that the workman has given only as 112/-. But however it is vehemently argued by the counsel for the workman that this A.M. Joseph has not been examined before the Enquiry Officer and so it will be fatal to the management's case. I do agree the management should have examined the said Joseph. But the file reveals that the management has made vigorous attempt to get him as a witness who despite repeated summons did not appear before the Enquiry Officer. But even then non-examination cannot be taken fatal to the management's case since the workman has specifically admitted that Joseph has come to the bank and has handed over a sum of Rs. 1746/- to him. Then comes Ext. M5 and M10 which are letters sent by workman to Joseph. These 2 letters are inland letters. In these 2 letters the workman has no case at all that he has given the balance to Joseph himself direct to the Reserve Bank but on the other hand the contents of these letters reveal that the balance amount was kept in the hands of the workman. Further Ex M4 which is the register maintained in the management bank for recording the particulars of the notes received for ex-

changed, in the column provided for the tenderers name the name of Joseph is not seen entered at all. This evidently shows that even though the workman has kept with him the balance amount of Rs. 1634/- he has not taken any steps for getting it exchanged. This obviously shows that this amount is actually misappropriated by the workman. Thus in short I find evidence in abundance to conclude that the workman has committed the misconduct alleged against him by the management. So much so the finding of the Enquiry Officer holding the workman guilty of this charge has only to be upheld.

9. Point No. 3:—Lastly comes the question of punishment. As stated earlier the punishment awarded by the management is dismissal. The counsel for the management sought to justify this imposition of extreme penalty contending that the workman being the Head Cashier should not have indulged in this kind of misappropriation and so the management is fully justified in awarding him the maximum penalty. I fully agree that the workman being the Head Cashier is holding a very responsible position in the bank and if he indulges in this sort of malpractice definitely that will adversely effect the very reputation of the bank. But however taking into account his age and length of service I feel punishment of compulsory retirement will be just adequate.

10. In the result an award is passed altering the punishment of dismissal into that of compulsory retirement.

11. This award will come into force 30 days after its publication in the Official Gazette.

Dictated to the Confidential Assistant, transcribed by him, revised corrected and passed by me on the 15th day of September, 1992.

K. G. GOPALAKRISHNAN, Presiding Officer

APPENDIX

Witnesses examined on the side of the Management :—

MW1 .. P.S. Neelakandan.

Documents marked on the side of the Management:—

Ext. M1 .. Enquiry Proceedings.

Ext. M2 .. Enquiry Report.

Ext. M3 .. Memorandum of procedure to be followed into exchange of mutilated Notes by Public Section Banks.

Ext. M4 .. Keys Register.

Witnesses examined and documents marked on the side of the Union :—

NIL.

नई दिल्ली, 14 अक्टूबर, 1992

क्र. आ. 2818.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धन के संयुक्त निरीक्षकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में श्रम न्यायालय, कोझिकोड के पंचपट को प्रभावित करती है, जो केन्द्रीय सरकार को 7/10/92 को प्राप्त हुआ था।

[संख्या एल-12012/189/91-आई. आर. बी.-3]

एस. के. जैन, डेस्क अधिकारी

New Delhi, the 14th October, 1992

S.O. 2818.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, Kozhikode as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 7-10-92.

(No. L-12012/189/91-IR B.(III))

S. K. JAIN, Desk Officer

ANNEXURE

IN THE LABOUR COURT, KOZHIKODE,

KERALA STATE

Dated this the 22nd day of September, 1992

PRESENT :

Shri K. G. Gopalakrishnan, B.A., B.L., Presiding Officer.

I.L. (C) No. 5/91

BETWEEN

The Regional Manager, State Bank of India, Region-III, Zonal Office, Shanmugham Road, Ernakulam, Cochin-31—Management.

AND

Shri K. Jayapparakasan, 'Srivilas', Edakkad, West Hill, Calicut, Kerala 673001.—

Workman

Representations :—

Sri M. Ashokan, Advocate, Calicut—

For Workman

Sri V. Sreedharan Nair, Advocate, Calicut.—

For Management.

AWARD

By the order No. L-12012/189/91-IR B III, dated 18-9-1991 the dispute between the aforesaid parties in connection with the denial of employment to a worker by name Jayaprakasan with effect from 15-4-1983 was referred to this court for adjudication by the Central Government under Section 10 of the Industrial Disputes Act.

2. After the receipt of the reference order in this court both the management and the workman entered appearance and filed claim statements setting forth 2012 GI/92—7

their stand in the dispute. The brief averments in the statement filed by the workman are as follows :—

The workman was appointed as a Part-time Sweeper-cum-Watchman in the Pavangad Branch of the management bank viz., State Bank of India on 28-7-1982 and since then he was working as such. While so his service is dispensed with by the management on 15-4-1983 without assigning any reason what-so-ever. In fact the workman has worked a total days of 244 in between 28-7-1982 and 15-4-1983. Thus as this workman has worked for more than 240 days in a year the management has no right to terminate his service. It at all the management wants to terminate his service that can be done only as provided in section 25F of the Industrial Disputes Act by paying him one month's pay as notice pay and retrenchment compensation. This has not been done by the management. This order of termination issued by the management is hence void in law. Hence an award may be passed directing the management to reinstate the workman in service with backwages and continuity of service.

3. The brief averments in the statement filed by the management are as follows :—The worker is not a workman as defined in the Industrial Disputes Act since he is working only as a Part-time employee. It is true that this worker has worked from 28-7-1982 to 15-4-1983 in the Pavangad Branch of the management bank as a Part-time Sweeper-cum-Watchman. But the allegation in the statement filed by the worker that in between these 2 dates he has worked 244 days is false. In fact he has worked only 234 days and as such section 25F is not attached at all. Hence an award may be passed rectifying the action of the management.

4. On these pleadings the following points are formulated for decision :—

- (1) Whether the worker involved in this case is a workman as defined in the Industrial disputes Act?
- (2) Whether the termination of service of the workman is valid in law?
- (3) To what relief if any the workman is entitled?
- (4) Result :

5. The evidence consists of the oral testimony of MW1 and the documents marked as Exts. M1 and M2.

6. Point No. 1 :—This point viz., whether the worker is a workman as defined in the Industrial Disputes Act is framed since a contention is advanced by the management that the worker will not become a workman as defined in the Industrial Disputes Act since he is employed only as a part-time employee. According to the counsel for the management only a full time employee will become a workman as defined in the Industrial Disputes Act and a part-time employee will not come within the purview of the workman as defined in section 2(s) of the Industrial Disputes Act. But this contention can be straight away repelled in view of the decision of the Kerala High Court in Lalithakumari v. Divisional Engineer (Cables) reported in 1983-KL-T-S. N. 23-Case No. 38 wherein an identical position viz., whether a part-time employee will be a workman as defined in the Industrial

Disputes Act came up for consideration before the Kerala High Court. After considering the scope of section 2(s) it is soon laid down as follows :—

“When a person is appointed to do manual work for wages, whether full-time or part-time, it is employment for the purpose of the Industrial Disputes Act, as a workman. In as much as the petitioner's termination was not in compliance with the provisions of S. 25F of the Act, there has been no termination of services in law, the petitioner is entitled to continue in service until her services are duly terminated in accordance with law, and she would be treated as continuing in service even today”.

This in view of the aforesaid dictum it has to be held that even a part-time employee will be a workman as defined in the Industrial Disputes Act and hence the contention of the counsel for the management that the worker being employed only a part-time basis he will not become a workman as defined in the Industrial Disputes Act has to be repelled.

7. Point No. 2:—The case of the workman is that in between 28-7-1982 to 14-4-1983 he has worked a total number of 244 days. This is disputed by the management contending that he has worked a total number of 234 days. Any way in the claim statement filed by the management (see the last sentence in paragraph 3) the management has specifically admitted that the workman has worked on several days in between 28-7-1982 to 14-4-1983. But as stated earlier their case is only that he has worked only a total number of 234 days. But the Manager of this branch who tendered oral evidence as MW1 for and on behalf of the management has specifically stated in cross-examination that this 234 days is counted without taking into account the intervening holidays and sundays and if the intervening holidays and sundays are also taken into account the workman would have worked more than 240 days during this period. Let me extract the relevant part of his deposition :—(The relevant part is in regional language)

Now the Supreme Court has held in the decision reported in 1988—LIC-P. 98 that while counting 240 days for the purpose of section 25 B of the Industrial Disputes Act intervening Sundays and Holidays also will have to be counted. Thus even according to MW1 if sundays and Holidays are counted the workman had worked for more than 240 days during 28-7-1982 to 14-4-1983. Thus as the workman has worked more than 240 days during 12 calendar months it has to be held that he has one year service in view of section 25B of the Industrial Disputes Act.

8. Under Section 25F of the Industrial Disputes Act an employee who has one year service can be terminated only by paying him one months notice pay and retrenchment compensation. Now the Supreme Court has held in the decisions reported in AIR 1967-S.C. 420 and AIR-1981, S.C. 1253 that the compliance of section 25B is a condition precedent for retrenchment and hence if a workman is retrenched without

complying with these statutory formalities the retrenchment will be void in law and as such in such cases the said workman will be entitled to be reinstated with backwages and continuity of service as if there is no retrenchment at all. As this workman has been retrenched without complying with these statutory formalities it has to be held that the retrenchment is invalid in law and this point is thus decided in favour of the workman.

9. Point No. 3:—Since the retrenchment of the workman is found to be invalid, in the normal course the workman is entitled to be reinstated with backwages and continuity of service as if there is no termination at all. But it should be born in mind that though he was retrenched as early in April 1983 this industrial dispute was raised by him only in 1991. Hence it will be rather improper and unwise to direct the management to pay him full back-wages right from 15-4-1983. As the workman has taken up the issue only after 8 years I think he need be paid only 20 per cent of the backwages.

10. In the result an award is passed directing the management to reinstate the workman K. Jayaprakashan in service with 20 per cent of the backwages and with continuity of service.

11. This award will come into force 30 days after its publication in the Official Gazette.

Dictated to the Confidential Assistant, transcribed by him, revised, corrected and passed by me on the 22nd day of September, 1992.

K. G. GOPALAKRISHNAN, Presiding Officer

APPENDIX

Witnesses examined on the side of the Management:—MW1 P.C.—Abdulla.

Documents marked on the side of the Management:—Ext. M1—Attendance Register.

Ext. M2—Substitute Attendance Register.

Witnesses examined and documents marked on the side of workman :—

NIL.

नई दिल्ली, 19 अक्तूबर, 1992

का. आ. 2819.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये में, केन्द्रीय सरकार सेन्ट्रल कैटल जॉइंटिंग फार्म, बसन्तपुर के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्तुबंध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण भुवनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-92 को प्राप्त हुआ था।

[एल.-42012/80/90-आई.आर. (डी.यू.) (पार्ट)]

के०बी०बी० उष्णी, डेस्क अधिकारी

Delhi, the 19th October, 1992

S.O. 2819.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Cattle Breeding Farm, Basantpur and their workmen, which was received by the Central Government on 13-10-92.

(No. L-42012/80/90-IR(DU) (Pt)

K. V. B. UNNY, Desk Officer.

ANNEXURE

INDUSTRIAL TRIBUNAL : ORISSA :
BHUBANESWAR :

Present :

Sri R. K. Dash, LL.B.,
Presiding Officer,
Industrial Tribunal,
Orissa, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 42 OF 1990
(CENTRAL)

Dated, Bhubaneswar, the 29th September, 1992

Between :

The Management of Central Cattle Breeding
Farm, Chipilima, Sambalpur.

.. First Party-management.

(And)

Sri Dilip Kumar Sidhartha,
Village — Shajbahal, P.O. Basantpur,
Distt : Sambalpur.

.. Second Party-workman.

Appearances :

Sri Balabhadra Panda, — For the first party-
management.

Agricultural Assistant.

Sri. D. P. Nayak, President of

Central Cattle Breeding

Farm Labour Union.

— For the second party-
workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause(d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication by this Tribunal vide their Order No. L-42012/80/90-IR(DU) dated 3-12-90:—

“Whether the action of the management of Central Cattle Breeding Farm, Chipilima, P.O. Basantpur, Distt : Sambalpur, Orissa in terminating the services of Shri Dillip Kumar Sidhartha w.e.f. 28-6-89 is justified? If not, to what relief is the workman entitled?”.

2. To state state briefly, the case of workman is that he joined the Central Cattle Breeding Farm (hereinafter referred to as the 'Management') in the year 1977 as a labourer and worked in that capacity till 1981 whereafter he was allotted duty as a Chowkidar. But as ill luck would have it for no fault of his he was terminated from service by the management on 28-6-89. His further case is that from 9-5-89 he fell sick and was under treatment. He intimated this fact and applied for leave to his authority and after being cured when he came to join on 28-6-89, he was not allowed by the management. He approached the authority several times but his request was turned down. So, finding no other alternative he approached the labour machinery for necessary relief. His grievance was admitted to conciliation and the same having ended in failure, the resent reference was made for adjudication of the dispute.

3. Refuting the allegations of the workman the management has pleaded inter-alia that Central Cattle Breeding Farm being not an industry the present reference is not maintainable and the Tribunal lacks in jurisdiction to decide the same. As to the factual aspect of the case, it is urged that the working committed theft of a cycle seat belonging to one Narayan Chhatra, a Peon on whose report an enquiry was held and the workman was found guilty. Further, the workman remained absent from duty from 9-5-89 onwards without any intimation and on 4-7-89 when he reported for duty he submitted a medical certificate alongwith his application stating that he was sick from 9-5-89 to 27-5-89. He did not explain as to the cause of his absence for the remaining period. So, taking all these facts into consideration the management resumed him employment and he being a daily labourer it was not necessary to initiate any proceeding against him.

4. In course of hearing, the management has not led any evidence to substantiate its plea that the Farm of the Management is not an 'industry' and that the Court does not have jurisdiction to decide the dispute and in my opinion, the same has not been rightly canvassed. In this view of the matter, it would be futile exercise to give a finding on the aforesaid position when the management does not press the same.

5. The grievance of the management against the termination of service of the workman is legal and justified.

6. The grievance of the management against the workman are two would namely, he committed theft of cycle seat of his co-employee and that he remained absent from duty without any prior intimation. Admittedly, no charges were framed against the workman and he was not asked to show cause.

In so far as the allegation of theft is concerned, the management went beyond its jurisdiction to take cognizance of such allegation and treated the same as misconduct for doing away the job of the workman. Admittedly, the management has no Standing Orders of its own. In absence thereof, the provisions of Industrial Employment (Standing Orders) Act, 1946 are to be borrowed and applied to the present case. In Rule-14 of Schedule-I of the Industrial Employment (Standing Orders) Central Rules, 1946,

it is provided that theft, fraud, dishonesty in connection with employer's business or property shall be treated as misconduct. Here, in the present case, the cycle seat which was alleged to have been taken away by the workman did not belong to the management and so, the Management should not have taken note of the complaint if any lodged by a co-employee of the workman.

7. Next comes the question of unauthorised absence of the working from duty for certain period. It is alleged that from 8-5-89 to 3-7-89 the workman did not report for duty. As against this the case of the workman is that he fell sick and was under the treatment of a doctor. It at all the management did not believe his version in that case it ought to have framed a charge against him; asked him to show cause and then proceeded with an enquiry and on the basis of the enquiry report it would have taken decision. Instead, it treated his absence as a misconduct and took such a harsh step against him by putting an end to his job. The Industrial Employment

(Standing Orders) Central Rules does not envisage that mere absence without leave is a misconduct. On the contrary, the Standing Order provides that absence of a workman from duty must be habitual so as to bring it within the purview of misconduct.

8. In view of my discussions made above, I hold that the management illegally and in hot-haste took a decision in doing away the job of the workman. So, termination of services of the workman being illegal and unjustified, he be reinstated with all back wages. Payment shall be made within three months from the date of publication of this Award.

The reference is answered accordingly.
Dictated & corrected by me.

Dt. 29-9-92.

Sd/-Illegible
Presiding Officer,
Industrial Tribunal.